96-109

ALCOHOL-IMPAIRED DRIVER ACT

HEARING

BEFORE THE

SUBCOMMITTEE FOR CONSUMERS

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

UNITED STATES SENATE

NINETY-SIXTH CONGRESS

SECOND SESSION

ON

S. 2816

TO AMEND SECTION 402 OF TITLE 23, UNITED STATES CODE, RELATING TO HIGHWAY SAFETY PROGRAMS, TO REQUIRE THE ESTABLISHMENT OF A COMPREHENSIVE ALCOHOL-TRAFFIC SAFETY PROGRAM IN EACH STATE AIMED AT DISCOURAGING DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL

JULY 1, 1980

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ALCOHOL-IMPAIRED DRIVER ACT

TUESDAY, JULY 1, 1980

U.S. Senate,
Committee on Commerce, Science, and Transportation,
Subcommittee for Consumers,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room 5110, Dirksen Senate Office Building, Wendell H. Ford, presiding.

OPENING STATEMENT BY SENATOR FORD

Senator Ford. Good morning, ladies and gentlemen.

This morning the subcommittee will consider S. 2816, the Alcohol-Impaired Driver Act. S. 2816 would deny Federal funds to any State that did not have a comprehensive alcohol traffic safety program. Included in that program would be, one, a mandatory 10-day jail sentence or comparable term of community service for each conviction of drunken driving; two, mandatory participation in a safety or alcohol treatment program upon conviction; Three, monitoring to insure compliance with court sentences; and four, mandatory suspension of the license for up to 1 year on the first offense—and for the second and third convictions within a 3-year period—mandatory revocation of the license for not less than 1 year.

The problem of the drunken driver is a very serious one. This year 50,000 people will die from accidents on our Nation's highways. In one-half of these accidents, alcohol will be a factor. In 65 to 80 percent of all single-vehicle crashes the driver is legally drunk. Many projects and studies have been conducted to determine how to alleviate this problem and aid those drivers with serious drinking problems.

Today we will consider one proposal which has been advanced to attempt a correction of this major national safety problem. I know that the witnesses this morning have had experience with different methods of handling the drunk driver. Drawing from this expertise, I think the committee will benefit from a full discussion of the issue.

[The bill follows:]

READEX FICHE

96TH CONGRESS
2D SESSION

S. 2816

To amend section 402 of title 23, United States Code, relating to highway safety programs, to require the establishment of a comprehensive alcohol-traffic safety program in each State aimed at discouraging driving while under the influence of alcohol.

IN THE SENATE OF THE UNITED STATES

JUNE 11 (legislative day, JANUARY 3), 1980

Mr. PELL introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To amend section 402 of title 23, United States Code, relating to highway safety programs, to require the establishment of a comprehensive alcohol-traffic safety program in each State aimed at discouraging driving while under the influence of alcohol.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b)(1) of section 402 of title 23 of the United States Code is amended as follows:

"(H) establish a comprehensive alcohol-traffic safety program in each major political subdivision that:

(1) is coordinated and administered by local government officials, is financially self-supporting to the extent possible, and includes a record system identifying repeat offenders; (2) mandates for all persons convicted of driving while under the influence of alcohol: (a) a jail sentence of at least ten days, or a comparable term of community service as an alternative to imprisonment, and, (b) participation in a safety or alcohol treatment program, and, (c) monitoring to ensure compliance with court sanctions; (3) for a person convicted for the first time of driving while under the influence of alcohol, mandates a suspension of the driving privilege for up to one year with provision for a restricted license; and (4) for a person convicted of driving while under the influence of alcohol for two or more times within a three-year period, mandates revocation of the driving privilege for not less than one year. (5) For the purposes of this subparagraph, driving while under the influence of alcohol shall be defined as a blood-alcohol concentration of, at a maximum, one-tenth of 1 per centum.".

SEC. 2. The amendment made by this Act shall become effective with respect to State highway safety programs on such date as is prescribed by the Secretary of Transportation.

○

Senator FORD. Our first witness is a Senator who has been advocating solutions to this problem for a number of years. His personal attention and concern for this problem is well known among his fellow Senators. Based on his study of this issue, he proposed S. 2816, the bill we have before us this morning.

I am pleased to have as our first witness the Senator from Rhode Island, the Honorable Claiborne Pell.

STATEMENT OF HON. CLAIBORNE PELL, U.S. SENATOR FROM RHODE ISLAND

Senator PELL. Thank you very much, and thank you particularly for your personal courtesy and kindness in having this hearing.

I know full well the demands on your committee and on you for time, and I am deeply appreciative of your doing this. It's not lightly given, I know, and not lightly received. I thank you.

This is a very appropriate date, Mr. Chairman, for your committee to consider the need for tough legislation to combat drunken driving. When I say appropriate day, I say so meaningfully, because we are going to be in a couple of days into the Fourth of July weekend and the dreadful thought is that it's estimated by the National Safety Council that 550 of our citizens will be dead by next Monday morning, as a result of another Holiday holocaust on our Nation's highways. Half of those deaths will occur because of drunken driving, a crime that goes virtually unpunished in most of our courts.

In the aggregate, drunken driving is far more costly in terms of lives and injuries and dollars than any other crime. The estimated annual cost for medical payments, lost income and property damage resulting from drunk driver fatalities ranges up to $20 million per year. A staggering social cost. The total number of deaths on the highways each year is approximately the same as those of young Americans we lost in the total Vietnam war. That is another hard fact to absorb.

While there is much emphasis placed on the fact that some 20,000 Americans were murdered last year, very little outrage is expressed over the loss of 25,000 of our citizens annually in accidents involving drunken drivers.

Another million are injured each year, many crippled or impaired for life. Experts believe the numbers killed and injured by drunken drivers are actually much higher since the single car fatal accident in which only the driver is killed is seldom counted in the statistics as attributable to drunken driving.

But unlike conventional murderers, who almost always stand trial and receive some sort of sentence, drunken drivers rarely go to jail. Sometimes—in the single-car fatality—they kill only themselves. But even when they kill others, they are not, the reasoning goes, criminal types. They just had a few too many drinks and a lot of bad luck.

Most adult Americans—and many thousands who are not yet adults—drink alcohol, and a substantial number of them drink and drive at the same time. In fact, the Department of Transportation estimates that in some communities on Friday and Saturday nights 1 in every 10 drivers on the road is drunk. And lest you think this means that those drivers have had just a couple of drinks over the space of a few hours, let me remind you that the legal definition of drunkenness—a blood alcohol level of 0.10 percent—is the equivalent of a 150-pound person consuming four stiff drinks in exactly 1 hour.

Since statistics show that most drivers do drink and drive at least occasionally, and since nothing very serious happens on most of those occasions, the vast majority of people are unwilling to enforce laws that penalize this behavior with imprisonment or some other form of harsh punishment.

The real tragedy of this crime is that we all share the attitude of the vast majority—until we experience firsthand the consequences of drunken driving. I know this sad fact all too well; in the space of just 18 months a few years back, two of my valued aides were killed due to the actions of drunken drivers.

On November 16, 1974, Elizabeth Powell of my staff was slaughtered by a man named Donald Larsen, whose car went out of control, crossed a median strip and struck the automobile in which she was riding. The man had been drinking. After several delays in his case, he pleaded guilty to the charge of manslaughter by automobile and received a 1-year suspended sentence.

On September 27, 1975, Stephen Wexler, the chief counsel to the Senate Education Subcommittee and my close friend and associate for 10 years, was struck down by a drunk driver named Joseph Rawlings, who was drag racing with another car at the time of the accident. Steve left a young widow and an infant son. The driver of the car that hit Steve was charged with drunk driving, and both he and the driver of the other vehicle involved in drag racing were charged with manslaughter by automobile. Again after innumerable delays, both drivers were convicted of manslaughter and received suspended sentences.

Both accidents were well publicized and—just as when any accident occurs involving drinking and the loss of young lives—there was a sense of outrage and—on the part of some—a call for swifter, stiffer penalties. But except for the immediate families and friends of those killed, the image of the tragic accident fades quickly, along with the recognition that our laws need to be changed.

Can anything be done to improve this dreadful situation? Are we powerless to confront a problem which in the space of a decade has wiped out the lives of a quarter million of our citizens?

After thinking about this problem a great deal, I have concluded that we are not powerless to confront drunken driving, and that what is needed is a strong, uniform deterrent which will insure that drunken drivers in all States receive similarly stringent treatment. What we have at the present time is a situation where there are so many different laws at the State level dealing with drunken driving—some of them quite strong, but too many of them inadequate—that there is no predictability as to what the courts will do with each convicted drunken driver. The chances of punishment are too slight to serve as a real deterrent. What I am proposing is that we replace this present system of disparate local laws with certainly federally mandated minimum standards. Specifically, my bill attacks the drunk driving problem in three ways:

First, it requires that, as a condition of continuing to receive their section 402 Federal highway safety funds, the States enact minimum criminal penalties of 10 days imprisonment or 10 days of alternative community service for all convicted drunken drivers. This would be a mandatory sentence for everyone convicted of drunken driving; in other words, no deferred sentences, suspended sentences, or other probationary alternatives. In addition my bill requires that the States also have a mandatory requirement that all convicted drunken drivers participate in an alcohol treatment or driving safety program.

Second, as a second step, my bill requires that States—at a minimum—mandate suspension of the convicted drunken driver's license for up to 1 year for the first offense, and a revocation of the license privilege for those convicted of drunken driving two or more times within a 3-year period.

Third, finally, my bill directs the States to take steps to deal with what I believe is one of the most serious problems connected with drunken driving, namely the inability to identify repeat offenders. Because of the lack of adequate records, it is possible for some drunken drivers to be arrested repeatedly in different criminal jurisdictions without ever being identified as habitual offenders—a step that is crucial in getting treatment and help for the problem drinker, as well as in preventing further carnage on the Nation's highways. My bill would require the States to have effective record systems capable of identifying repeat drunk drivers and also to maintain records that are sufficient to indicate whether defendants actually comply with the court-ordered sanctions.

My own experience with the deaths of my staff members has been that it was almost impossible to determine whether the convicted parties ever completed the terms of their suspended sentences because of the lack of competent court records.

I say this specifically because several times in the last few years I had to dispatch members of my staff or interns to the courts to find out if these sentences were being served.

I believe congressional action in this area is long overdue. Each year the cold facts of alcohol-related highway deaths remain the same. Even more disturbing is the increase of alcohol abuse among our young people and the stark rise in alcohol-related traffic deaths in the 18-21 age group. According to the Baylor College of Medicine, the United States has the highest rate of alcohol-related traffic fatalities in the world—even though the overall fatality rate, based on vehicle mileage, is the lowest of any country.

Too often our response to this tragic problem is to reassure ourselves that since we do not drink and drive, we have nothing to worry about. As I learned through the loss of valued staff members, nothing could be further from the truth. The safety of even the most cautious driver depends upon the sobriety and caution of other drivers. Driving safety is much like a chain—it is only as strong as the weakest link. The drunken driver is a time bomb waiting to explode on the highway. Our past efforts to identify and rehabilitate the drinking driver have failed—after 35 years of slogans, studies, and holiday death counts, we need a strong Federal response to this problem.

Let us resolve to enact the necessary deterrent legislation and protect the innocent driver, passenger, or pedestrian from senseless loss of life simply because he or she happened to be at the same place at the same time as a drunken driver.

There is no criticism here of those who drink. That's their business. But there is a criticism of those who drink, drive and endanger their fellow citizens. And I believe the enactment of this law could reduce the number of those who engage in that dangerous pastime.

Senator FORD. Thank you, Senator Pell.

I would be delighted for you to join me up here and ask the witnesses any questions that you may we have.

Senator PELL. Thank you very much indeed. I would like to take advantage of your hospitality.

Senator FORD. The next witness will be Joan Claybrook, Administrator, National Highway Traffic Safety Administration, Department of Transportation.

STATEMENT OF HON. JOAN CLAYBROOK, ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY CHARLES LIVINGSTON, ASSOCIATE ADMINISTRATOR, TRAFFIC SAFETY PROGRAMS; AND JOHN WOMACK, ASSISTANT CHIEF COUNSEL

Ms. CLAYBROOK. Good morning.

Senator FORD. Good morning. We have a lot of ground to cover and some important information to get into the record. I would hope you might highlight your statements and we will put the rest of it in the record as if given, if that meets with your approval.

Ms. CLAYBROOK. Thank you, Senator. I'm pleased to be here to appear before your subcommittee to discuss S. 2816. I'd like to introduce my two colleagues. To my left is Charles Livingston, the Associate Administrator for our traffic safety programs, and on my right is John Womack, our assistant chief counsel.

Drunk driving continues to be one of our Nation's most serious public health and safety problems. It's devastating in terms of the amount of deaths and injury that occurs. Driving under the influence of alcohol is a national problem that is manifest in each and every American community. Since the passage of the 1966 Highway Safety Act, our agency has worked to find ways to control this epidemic through research, demonstration projects, public information and technical guidance for the States and local governments. The States have also made a substantial commitment of their own to improve alcohol safety. In the 10-year period, 1967-77, they spent $271 million on programs to improve the apprehension and adjudication systems for drunk drivers.

The public is concerned about the drunk driving problem. Yet, at the same time, in spite of public concern and the efforts of the police agencies and the local courts, drunk driving remains the major traffic safety problem. The public's concern has not been translated into effective control of drunk driving. In part, the efforts of the police and the courts are thwarted by the lack of adequate training and preparedness to deal with the very large numbers of drunk drivers on the roads and the lack of the close coordination needed between the police and the courts to rapidly handle and dispose of drunk driving cases.

The police have difficulties with DUI—driving under the influence—arrests because the procedures for the arrest on that charge are more cumbersome and time consuming than for any other traffic offense. It can take as long as 4 hours for a policeman to initially process a person arrested on a DUI charge, and additional time is consumed in subsequent court appearances. Moreover, the police may not be able to assign drunk driving patrol the high priority it warrants because the peak of drunk driving activity—late at night—corresponds with the peak of certain types of heavy criminal activity.

The courts and juries rarely apply the maximum sanctions for drunk driving allowed under State law, because they consider the typical penalties of mandatory jail sentences, license revocation or large fines for this offense as too harsh for the normal law-abiding people who come into the courts on drunk driving charges. The courts endorse plea bargaining or reduce the charge to the lesser, nonalcoholic offense to avert the imposition of the severe penalties.

As for the drunk driver himself, if caught, he is unlikely to be convicted of the alcohol offense for the reasons just stated. Moreover, if convicted, punishment comes many months after his arrest. By that time, the punishment in the form of fines, jail, or treatment may become, in the DUI offender's mind, society's unjust intrusion into his life and a threat to his livelihood. This engenders resentment rather than contrition and negates the behavorial modification effects of the sanctions. As for the drunk drivers who are not caught, and they comprise the vast majority, they have little fear of being apprehended, and if apprehended, of being punished.

At present, people in most States who drive while intoxicated have little or no fear of apprehension. States have spent their own funds and NHTSA highway safety—section 402—funds on the fight against drunk driving. Given the way drunk driving is handled in most States, however, no amount of money will guarantee improved results unless the process for drunk driving arrest, adjudication and sanctioning is improved and State and local governments send a clearer signal to drivers that drunk driving is a serious crime.

Under the alcohol safety action project—ASAP—between 1970 and 1976, NHTSA conducted demonstration projects in 35 communities nationwide under a special $88 million appropriation to find what State and local governments could do to make a drunk driver deterrence program more effective at the local community level. The principal objectives of the ASAP's were: One, to demonstrate that the establishment of a local program to coordinate the efforts of the police, courts, local government and rehabilitation agencies was practical and effective in curbing drunk driving; two, to improve the means by which drunk drivers are detected, apprehended, processed through the courts, diagnosed for the degree of alcohol dependency, and given treatment as well as the traditional penalties such as fines and licensing actions.

Based upon the results of the ASAP's, we have found that the following measures are effective in reducing the drunk driving problem: Developing a coordinated system to handle the drunk driver involving the police, prosecutors, courts, probation officers, treatment, and public information officials of the government; streamlining court processing procedures to handle the increased caseloads; adopting a broader approach to court sanctions by combining punishment for the driving offense with referral to rehabilitation agencies to treat the underlying alcohol problem—in this regard, it is important to distinguish between the problem, alcoholic drinker and the social drinker, and to prescribe treatment according to that classification; strengthening local and State laws to aid drunk driver enforcement, adjudication, license revocation and treatment efforts; statutes authorizing roadside preliminary breath-alcohol screening and establishing an illegal per se blood-alcohol concentration level are examples of helpful legislative measures.

Senator Pell, very mindful of the tragic effects of drunk driving, has introduced a bill that seeks to make the fight against this menace a higher priority in each State by means of a more systematic approach to the problem. If it is a higher priority, drivers will become increasingly aware of this attitude on the part of the State and local police agencies and courts, and will realize that they are much more likely to be caught if they drive while intoxicated.

We fully support the aims of S. 2816. We believe that a new emphasis on the dimensions and control of the drunk driving problem is needed. S. 2816 proposes that each State establish a comprehensive alcohol-traffic safety program in each major town and city. Many of the elements of this program specified in the bill we can support on the basis of the findings of our ASAP program.

The bill's focus on local level efforts to curb drunk driving is proper. Only a decentralized program that gives priority to cooperation and integration of the local police, the local courts and the local rehabilitation agencies can lead to the quick and effective arrest, trial, sentencing, and rehabilitation of DUI offenders that will force drivers to take notice of the legal consequences of drunk driving. This bill would not require the establishment of any new local alcohol agency—just a closer working relationship among existing police, health, and judicial agencies.

We applaud the encouragement the bill provides to local jurisdictions to make their drunk-driving programs financially self-sufficient. Through heavier fines or tuition for treatment programs, the drivers, who create the alcohol-traffic safety problem, would pay for its solutions. If State law permits these moneys to remain with the local government, the drunk-driver program can become financially self-sustaining and cease to draw on State and Federal funds.

The requirement that the State create a statewide driver record capable of identifying repeat offenders is particularly important. There can never be a harsher penalty for a second or third drunk-driving incident than for the first if the court can never obtain information on prior conviction of drunk-driving. We support this effort to make workable existing State habitual offender laws on punishment for a second or third drunk-driving offense.

The bill prescribes penalties for a drunk-driving conviction—mandatory jail term of 10 days or a comparable term of alternate community service, mandatory license suspension for the first conviction, mandatory license revocation for subsequent convictions and treatment for a convicted drunk-driving offender who is a problem drinker.

We support these penalties on the basis of our ASAP experience. We found that mandatory license suspensions and revocations are the most effective deterrents to future drunk driving by those convicted. The coupling of health treatment with penal sanctions comports with our belief on the need to treat alcoholism, the underlying cause of the problem alcoholic driver's actions.

Although we object to limiting the courts' discretion by requiring imposition of a mandatory jail term for first-time offenders, we believe that the availability of community service as an alternative to a mandatory jail term where appropriate is a reasonable and useful sanction that can be used creatively by judges.

In our survey of local court actions in those States with mandatory jail penalties, we were repeatedly struck by the degree to which the courts did not impose jail terms in cases calling for them. We believe that the imposition of a term of alternate community service as an alternative to a jail sentence is socially constructive and, if properly devised and used by the courts, which we think they could do, may educate the offender about the negative effects of his criminal behavior.

The drunk-driving problem in this Nation is extensive and represents a real threat to all who use the Nation's highways. Although it seems to be an intractable problem to some, we believe a coordinated program on the local level can make the fight against drunk driving a higher priority and more effective. Incorporating the latest knowledge on deterring drunk driving, S. 2816 goes a long way toward encouraging changes in the organization and penalty structure of a DUI program at the State and local government levels. We support this bill.

This concludes my statement, Mr. Chairman.

Senator FORD. Thank you very much. I have a couple of questions. Do you see this bill as a mechanism to give NHTSA more leverage on the States to direct the use of section 402 money?

Ms. CLAYBROOK. I think it would, because it does require the State under the law to have an effective drunk-driving program. The agency really wouldn't be the mechanism that directs the States to do it. It really would be the statute. The agency would merely have to make sure that statute was being properly carried out.

Senator FORD. With the move to balance the budget and the accompanying reduction in funds which may result in less 402 money available, will the States be able to comply with the requirements under this bill?

Ms. CLAYBROOK. I think they would, because what you're talking about here are not extensively costly projects. In addition, this bill, as our agency has urged for some time, encourages the States to try and make these programs self-supporting. It certainly is possible to do that.

We think when they are self-supporting, they gain a great deal more community support. Furthermore we would prefer to see these programs eventually become self-supporting rather than continue to depend on the Federal Treasury. These funds that are used by the States in our view are really startup funds for particular experimental programs. Our agency would try to set something in motion in the States and have the States pick them up and carry them. Under the 402 program, we're not supposed to give more than seed money to the States. With this money the States are supposed to try different projects, see if they are effective, and, if effective, absorb them into the local community.

Senator FORD. Do you see this bill preempting the State's authority?

Ms. CLAYBROOK. No, not really, because it's a give-and-take bill. In other words, it says the Federal Government would not continue to provide certain funds to the State if they don't respond and react with some program that is going to deal with the very severe problem on the highways.

Senator FORD. The 402 money is such a minimal amount, don't you think the States would just refuse it?

Ms. CLAYBROOK. A State has that choice.

Senator FORD. Many of them are doing that, too. You find the States even turning down highway funds.

Ms. CLAYBROOK. That's a State choice. This is a Federal system. Senator Pell designed this program in recognition of the way that traffic safety laws are carried out in the United States, which is at the local level.

Senator FORD. The coercion is if you don't follow this program, the Federal Government will take your money away from you.

Ms. CLAYBROOK. The Constitution says——

Senator FORD. I understand the constitutional aspect.

Ms. CLAYBROOK. Essentially, the concept here is that in order to get highway money to build for roads and the highway safety funds, there has to be some minimal protection of the public as they use those.

Senator FORD. Don't you think a 20-foot median and 10-foot shoulders and 6-foot ditches and 24-foot pavements are good safety factors?

Ms. CLAYBROOK. I think they are very important indeed.

Senator FORD. That's an imposition, isn't it?

Ms. CLAYBROOK. Yes.

Senator FORD. Many States bought rights-of-way for a Federal highway program to build interstate roads and then Congress changed the widths and we had to buy more rights-of-way and buy land from mad folks. That made it become more expensive. If we didn't do it, we lost our money. That gets to be a bit tedious.

Ms. CLAYBROOK. In this case, Senator Pell's bill builds on 15 years of effort when the Highway Safety Act was first enacted in 1966. There were very few States with a minimum blood-alcohol level, which was a definition of what a drunk driver is. Many States didn't have in the courts an acceptance of the breathalizer device evidence and so on.

This bill essentially addresses one of the key areas in alcohol enforcement that was a problem—that has been the hesitation to try and impose effective sanctions. There is no way the States can ever possibly have sufficient policy officers on the highway—they couldn't afford it—to catch most drunk drivers.

One of the other alternative ways of dealing with the problem is to make sure that when someone is caught they will have a substantial kind of penalty imposed, which means that it serves as a much better deterrent. I think the addition of the community service provision in this bill, which we heartily endorse and encourage and want to do more work on ourselves, brings this program directly into the community at the community level.

Senator FORD. Is there any way to have accurate State recordkeeping procedures?

Ms. CLAYBROOK. Several courts that we have talked to recently have developed very interesting recordkeeping steps. They keep them for convictions. Once the trial has been had or a plea bargaining has been had, if there is not a conviction, those records are wiped clean.

Senator FORD. When you say several courts, you're talking about more than one or two?

Ms. CLAYBROOK. Yes. I went to Montgomery County and talked with some of the courts there, because it happens to be close by. The courts have been overwhelmed with paperwork themselves and they have attempted, in this particular court, to design some steps that would help them effectively keep records, but not overkeep records. I think those models are certainly feasible for other courts.

Senator FORD. I'll back off also from my other questions, because of time.

Senator WARNER. I'll back off also because of time.

Senator PELL. I had two questions. Could the goals of this bill be obtained within the present funding levels? Would more funding be required to attain the goals of this bill?

Ms. CLAYBROOK. No additional funds would be required. It might be advantageous initially, particularly to those States which don't have effective programs right now. I know that Senator Heflin, for example, who is a member of this committee, was a judge in the State of Alabama and his court was the recipient of 402 funds out of our program during the 1970's, when we were trying to help different States set up alcohol programs, effective ones, in the courts, and he found those funds to be enormously helpful. He said without those funds, the court could not have reorganized and set up effective alcohol safety adjudication.

I think the funds are important. We do allow and encourage the States under our existing program to use their funds in the most effective way for alcohol safety activity.

Senator PELL. Are there statistics available as to what proportion of highway deaths are on the Interstate System as opposed to those on the non-Interstate System?

Ms. CLAYBROOK. It's much smaller on the Interstate System compared to mileage. We think it's approximately 10 percent. I could submit an accurate figure for the record.

[The following information was subsequently received for the record:]

The percentage of highway deaths occurring on the Interstate System was 9 percent in calendar year 1978 (4,534 out of a total of 50,331) and 8.6 percent in calendar year 1979 (4,373 out of 51,083).

Senator PELL. If this bill was law, it would save 90 percent of the deaths, whatever that percentage would be, who are not killed on the Interstate System.

Ms. Claybrook. It would certainly address that. We estimate approximately 50 percent of the fatalities involve a drinking driver and many of those on the local highways.

Senator Pell. Thank you very much.

Senator Warner. I'll submit my questions for the record.

Senator Ford. There will be some questions submitted to you in writing. We hope you'll answer them promptly. Senator Warner handed me several here to be sent to you, also.

We appreciate you coming this morning. Thank you for your time and your expert testimony.

[The following information was subsequently received for the record:]

Questions of the Committee and the Answers Thereto

Question 1. Do you have any idea how many States would have to change their laws in order to get 402 money if this bill were enacted?

Answer. One provision of S. 2816 would require local jurisdictions to make their alcohol safety programs financially self-sufficient to the extent permitted by State law. An analysis of Alcohol Safety Action Project (ASAP) finances indicated that nearly enough revenue is generated by an enhanced enforcement/adjudication effort through fines to fund the majority of alcohol program activities. Unfortunately, such revenues are not generally redistributed to the agencies incurring the costs. A fee system for covering the diagnostic and referral costs plus a redirection of fine revenues would be the primary objectives of self-sufficiency legislation. Arkansas, New York, Ohio, South Carolina, Tennessee, and Virginia now have specific legislation which relates to self-financing of alcohol-traffic safety programs. Other States would have to explore legislative and administrative means by which they could obtain revenue for such programs. Such revenue is generally obtained from defendant fines and/or fees, although at least one State (South Carolina) uses a liquor tax to support such activities.

With regard to jail sentences, twenty States now have incarceration as an available sanction. Eleven of these States use this sanction for first offenders and use sentences ranging from one day to one year. These sanctions are seldom used. When they are used, sentencing is usually suspended. Two States (Arizona and Washington) have mandatory jail sentences of a minimum of one day which cannot be suspended.

The community service sentencing option provided in S. 2816 is increasingly being used to supplement the traditional sentencing power of trial courts. One-third of the jurisdictions in the U.S. authorize community or public service as a disposition option for criminal sentencing. It has been legislated as a sentence in its own right, and as a condition for a suspended sentence, probation and discharge. Most courts, however, impose community service sentences on an ad hoc, nonstatutory basis. Thus it is difficult to assess which States would require specific legislation to authorize a community serviced sanction for convicted alcohol offenders.

License suspension or revocation is mandatory in 43 States. Thirty-four require such action upon a first conviction of driving while under the influence of alcohol. All of the 43 States with such laws require action upon a second conviction.

In addition, 38 States now have laws providing for the restricted use of a driver's license. The license is generally restricted to the minimum driving required to retain employment, attend an alcohol education or treatment program or to prevent some other form of hardship.

Considerable progress in State alcohol programs and supporting legislation has already resulted from Title 23 requirements, specifically Standard 308, Alcohol in Relation to Highway Safety. All States, for example, now have specified driving under the influence as an offense and set presumptive illegal blood concentration levels of alcohol at 0.10 percent or lower.

Question 2. What has been the experience of countries with more severe legal sanctions for driving while intoxicated and which enforce those sanctions? (Sweden, for example?)

Answer. It does appear that the Swedish approach has lessened the severity of the drinking driving problem by a considerable degree. Sweden, and other Scandanavian countries, have a variety of factors in operation which affect the drinking driver problem. First, liquor by the drink is approximately twice as expensive as in the United States. Secondly, the Swedes are able to use random roadside surveys to detect impaired drivers. Third, when a person is convicted of drunk driving, both loss of license and jail sentences are much more likely to be used than in the United States. Fourth, Sweden has long had a strong temperance movement in its culture.

As a result, there is a greater perception of the drinking driver problem by the public in Sweden than in the United States. There is also greater peer pressure against drinking and driving. Even though Swedes drink, there is much greater emphasis on one sober person being present to drive. There also is a greater acceptance of both the drunk driver laws and of the police role in enforcing them.

As far as bottom line effects, Swedish roadside surveys indicate a much smaller proportion of drivers on the road who have blood alcohol concentrations of 0.05 percent (or greater) than in the United States. Crash records also indicate a smaller proportion of fatal crashes that are alcohol related. In the United States, approximately one-half of all fatal crashes involve a drunken driver. In Sweden, our best estimates are that approximately one-third of such crashes involve drivers at similar blood alcohol concentrations.

The effects of Swedish measures to counter drunk driving seem to be greater for persons at lower blood alcohol concentrations than at high concentrations. This suggests that their measures are affecting the mild problem drinkers more than they are affecting the more severe problem drinkers.

Since Swedish laws against drinking and driving have been in effect over a long period of time and since there are a number of factors acting simultaneously, it is difficult to determine which actions caused which results.

Question 3. What do you consider to be the most important, that is, the most effective, provision of this bill?

Answer. While we believe each section of this bill to be an important contribution to an effective drunk driver program, the most important feature of this bill is contained in the very first phase, "(H) establish a comprehensive alcohol-traffic safety program in each major political subdivision . . .".

The drunk driver problem in our nation is, in a real sense, not a national nor even a State problem. It is a local problem endemic to every community in this country. Within the cities and towns, societal attitudes towards drunk driving are established and perpetuated. It is there where police arrest drunk drivers, prosecutors prosecute, judges adjudicate and treatment services reach the drivers. It is also in those communities where we most directly feel the tragic consequences of drunk driving.

Therefore, we believe the forum for action on this problem must be at the local level. It is there that the solutions must occur. Unfortunately, most communities in this country do not have a comprehensive alcohol-traffic safety program, particularly not with the features included in the Pell Bill. If every major city, town, or county could be encouraged to focus on this local problem, and to work toward a comprehensive drunk driver program, real progress would result.

Question 4. In your experience with the Alcohol Safety Action Project (ASAP) program, what did NHTSA find to be the most effective way to deal with this problem?

Answer. Experience from the alcohol safety action projects indicated that the most promising way to deal with the drinking driving problem is through a comprehensive systems approach, which includes public information, legislation, enforcement, improved adjudication procedures, effective penalties, and central management or coordination. Most ASAPs approached the problem in this manner.

In one-third of the ASAP sites we were able to document significant reductions in nighttime fatal crashes, which are most frequently associated with alcohol use. In all of these sites, as well as in other ASAP sites, significant increases in enforcement efforts were also documented. Why this was accompanied by significant results in these sites and not in others is still not clear.

Experience in other nations suggests that such enforcement efforts must be accompanied by substantial public information designed to make the enforcement efforts as visible as possible to the general public. These were the two primary characteristics of both the British Road Safety Act of 1967 and of the more recent New Zeland enforcement "blitzes", both of which resulted in substantial impacts on nighttime fatal crashes.

Our present emphasis is on increased (more efficient) enforcement of drinking and driving laws, coupled with media efforts to publicize these results. It appears to us that a higher perception of the risk of being caught, coupled with a higher probability of moderate license sanctions being levied, would provide the most effective program which we could now implement.

Hopefully, these changes would ultimately result in a greater public perception of the problems of drinking and driving and, as in Scandinavia, greater peer pressure against drinking and driving. This, however, is a long term prospect which would likely require long-term public information and education programs as well.

Question 5. How would a program like this one envisioned in S. 2816 operate? For example, who would be in charge of local compliance?

Answer. The operation of the Section 402 State and local highway safety programs under S. 2816 would not change Federal-State relations. At present, a State, in order to receive Section 402 funding, must comply with five requirements set out in Section 402 (b)(1) e.g., the establishment of comprehensive driver training program. The Governor's Highway Safety Representative, who is the State official responsible for the design and management of a State's highway safety grant funds, is the official responsible for monitoring and assuring local compliance with the requirements of Title 23 and with the State's annual Highway Safety (Program) Plan (HSP). He would be responsible for local compliance with an alcohol-traffic safety requirement.

To meet Federal obligation under Title 23 to ensure State adherence to these requirements, the National Highway Traffic Safety Administration (NHTSA) has established regional and headquarters staff organizations to work cooperatively with each State. As a result, a system has been developed whereby NHTSA regional and headquarters staff work closely with their State counterparts to design, implement and review highway safety programs which both deal with safety problems and also meet the prerequisites of Title 23. Should a State fail to implement an agreed to project, NHTSA regional staff can suspend highway safety grant funding for that effort.

Question 6. It seems there may be a problem with the extensive record-keeping system. What kind of records are we talking about and exactly how would they be used?

Answer. All States currently have laws requiring courts to report all convictions for traffic offenses to the State driver licensing agency. These records in turn can be used by licensing examiners for licensing action or the courts for pre-sentence investigations.

A major problem arises, however, because there is incomplete reporting by local courts of the drunk driving convictions which do occur. A further problem arises because local courts often do not request driving records from the State motor vehicle department. This lack of court initiative may be the result of cumbersome access procedures for these records. The composite effect of all these problems is a great difficulty in identifying repeat offenders and consequently failing to impose the more extensive sanctions such offenders deserve.

We advocate changes in State statutes and regulations, as appropriate, to encourage courts to report each conviction on an alcohol related offense, and to make that conviction record easily accessible to the courts.

Question 7. As to the required participation in safety schools, is there evidence of a drop in recidivism from this participation?

Answer. We have exhaustively evaluated the education and treatment efforts to which convicted drinking drivers were referred in the ASAP programs. These referral programs undoubtedly resulted in increased court efficiency in dealing with the drinking driver. Both the drinking drivers and their lawyers object less to a sentence which centers around attendance at an alcohol safety school than one which involves license revocation (or jail). Thus, if a court has a referral program, it is often used in lieu of license actions. As a result there are fewer not guilty pleas (in some cases to the original charge and in some cases to reduced charges), fewer requests for jury trials and subsequently lesser court backlogs. This pleases judges very much.

Unfortunately, the effectiveness of such programs in actually reducing recidivism (rearrests) among those drivers exposed is not as evident. Our evaluations suggest that problem drinkers exposed to these programs have the same number of subsequent arrests as problem drinkers fined similar amounts but not required to attend such programs. The only exception would be those cases where the drug disulfiram was used as a treatment component. Where this drug has been included in treatment efforts, reduced drinking has often been documented. However, treating a drug problem with a drug has its own problems, at least in terms of publicity.

With lesser problem (or social) drinkers, our evaluations have suggested some limited effect in terms of reduced recidivism.

Studies of drinking drivers whose licenses have been revoked or suspended versus those who have been referred to education or treatment programs indicate that license actions are somewhat more effective in reducing future recidivism. Unfortunately, more frequent use of license actions results in more frequent not guilty pleas and in more requests for jury trials.

The solution appears to be one of implementing a program of referral and license actions which does not result in an overburdened court, yet is effective in modifying the behavior convicted drinking drivers (and in deterring potential drinking drivers).

Question 8. How much would compliance with the record-keeping requirements cost?

Answer. It is difficult to accurately assess the total cost of record system improvements required by S. 2816. Because of differing records capabilities which currently exist between States, the improved records requirements of S. 2816 would be extremely variable from one State to the next.

All States now have the basic licensing records systems in place as well as the requirement on the courts to report convictions. There are many States that now have the hardware capability to efficiently collect and access records. In other States modifications or additions to their automated systems would be necessary. However, because of the increased fine revenue that would result from increased first and multiple offense drunk driving convictions, a portion of the cost of these improved systems could be offset.

Question 9. A problem that particularly concerns me is that of the young person drinking and driving. How would this bill impact on that? Would the juvenile court system be affected by this legislation?

Answer. According to a 1978 national study prepared under contract for NHTSA entitled "Development of Juvenile Traffic Case System Guidelines", most States distinguish between the various types of offenses, leaving minor traffic offenses to be handled by traffic courts while more serious traffic offenses such as DUI are handled in the juvenile court. Eighteen States place jurisdiction of all traffic matters involving juveniles exclusively in the juvenile court. Thus, S. 2816 would not significantly impact the current status of juveniles convicted of DUI in a majority of the States. In the minority of jurisdictions where juveniles charged with DUI are tried in the adult traffic court, such juveniles would be, if convicted, subject to same sanctioning provisions under S. 2816 as an adult. In those States that place concurrent jurisdiction over juvenile traffic offenders by the juvenile court and the traffic court, S. 2816, with its community service provision, might prove to be an incentive for prosecutors to adjudicate juvenile DUI cases in the latter forum.

Question 10. GAO recommended, in its 1979 report, that enforcement of drinking-driving laws should be directed at increasing awareness of the seriousness of this activity and apprehending the driver. Do you think that increasing the public's attention to the seriousness of the problem might be more effective than toughening up criminal sanctions?

Answer. As is apparent from the answers to questions 2, 4, and 7, it is likely that both increased enforcement and a toughening of criminal sanctions can have significant roles in reducing drinking and driving. The enforcement (and media) efforts associated with the British and New Zealand programs have resulted in the most dramatic, documented reductions in alcohol related crashes to date. In each case, however, the reductions were relatively short-lived and demonstrated a difficulty in maintaining such an effort over long periods of time.

In Scandinavia, however, where enforcement is accompanied by more severe penalties (as well as other factors), the effects appear to be somewhat more lasting in nature. Considering only this information, it would appear that a successful approach would require both enhanced enforcement and sanctions.

However, other factors have to be taken into account, such as the manner in which the judicial process operates in the United States. It is clear from a number of studies, as well as from the ASAP experience, that as the severity of sanctions increases, the efficiency of the court, (as measured by proportion of convictions, ability to process large numbers of cases, etc.) decreases. As the ability of the courts to process and convict decreases, enforcement also decreases. Thus, what happens in one part of the system directly affects what happens in another part of the system.

In the United States, it appears that increased enforcement can probably be maintained only if moderate sanctions are levied by the courts. On the other hand, the level of sanctions which are applied should be considerably more stringent than is the case today.

What is needed is more frequent use of license actions in the form of suspensions, revocations, and/or restricted licenses. License reinstatement could require successful attendance at an alcohol education or treatment program. This entire program could be provided as an alternative to a substantial jail sentence.

Such programs, in conjunction with enhanced enforcement and media efforts would provide the greatest potential for reducing the drunk driving problem in the United States. Such an approach would also be moderate in nature and workable in the American judicial system.

Questions of Senator Warner and the Answers Thereto

Question. There is no authorization request in S. 2816. How much Federal funding will be required to set these programs up? Will this bill require increased expenditures on the part of the States?

Answer. It is very difficult at this time to specify precisely the total cost to the States for implementing the provisions of the Pell bill. Yet, we do not believe that this new program would cost the States as much as one would expect since every State already has in place programs which address at least some aspects of S. 2816. Virtually every State provides for the revocation of the driver's license of those convicted of drunk driving; and this sanction is mandatory in 43 States. In addition, each State maintains a driver record system and requires drunk driving convictions to be included on the record in that system. The cost to the States would be the money needed to raise the priority of and fill the gaps in their existing programs.

We estimate that each State, on the average, now allocates 11 percent of its Federal Section 402 funds to alcohol safety-related programs. The States could raise that allocation percentage, if needed, in order to implement a Pell-type program. If Congress were to increase the amount of funds allocated to the States, the schedule for implementing a Pell-type program would be accelerated. However, we do not see any real likelihood of an increase in Section 402 funding or a special appropriation for alcohol programs by the Congress at this time.

We also wish to point out that the comprehensive community alcohol program advocated here could be almost completely financially self-supporting, based on our experience with the Federal Alcohol Safety Action Projects (ASAP). Aside from initial start-up costs, models do exist for designing local drunk driving programs that do not require massive Federal or State funding year after year. This can be accomplished, for example, by establishing a system where fines, fees and court costs assessed upon those convicted of drunk driving are plowed back into the local community alcohol program. Thus, the drunk drivers who create the problem pay for its solution—an idea that we feel has great merit.

Question. Your Alcohol Safety Action Projects (ASAP) combined parts of this bill with a public education campaign against drinking and driving. Is public education going to be necessary to achieve the desired results in this bill? If so, how will this be funded?

Answer. Public information and education (P.I. & E.) activities are critical to the success of drunk driving countermeasure programs. We do not believe, however, that the traditional public information and education methods such as billboards and public service announcements are adequate or effective in these programs. We believe that P.I. & E. should be geared to the key audiences who can most readily affect observance or enforcement of the drunk driving laws. This approach requires systematic planning and evaluation of communication programs, and utilizes a variety of communication channels including schools, mass media, civic organizations, trade, and professional groups.

We believe that public communication must be used with two goals in mind. First, it must be employed to expand public visibility for alcohol countermeasure activity. For example, newspaper and TV coverage of expanded drunk driver enforcement efforts by police or of higher conviction rates and stiffer sanctions for convicted offenders can serve to deter that vast majority of drunk drivers who are not caught by the police. Each individual in the general driving population must be convinced that he has a real personal risk of arrest and of receiving a substantial sanction if he drives while intoxicated. Public communication, therefore, is critical to create this climate of deterrence.

Second, public communication must be used to solicit broad, popular support for the increased enforcement, efficient adjudication, more uniform sanctioning of drunk drivers and the other elements of a comprehensive community alcohol safety program. Carefully designed media communication efforts can serve to create the supportive, political climate necessary to keep drunk driving countermeasure programs a high priority on State and local government agendas.

Support for public communications programs can be derived from the existing Federal and State safety highway funds and revenues generated from fines and fees assessed on convicted drunk drivers as described in the answer to Question No. 1. Most States and local communities have in place the personnel and resources in the police, health or highway safety agencies to mount public communications campaigns. All that is now required is redirecting and, in some cases, supplementing these capabilities.

Question. What other ideas have been or are being reviewed by the Department to reduce drinking and driving?

Answer. Much of our investigation has focused on techniques for improving the manner in which the local police, local courts and State licensing agencies deal with drunk drivers and the coordination among those agencies. We have examined how police detect, apprehend and process drunk drivers and have found ways to improve their techniques. We have also investigated new procedures for processing drunk driving offenders through the courts. This has included reformulation of sanctions for those convicted of drunk driving. We have developed and tested innovative techniques for diagnosing those brought before the court for purposes of education or treatment referral. Much of this research and testing has been accomplished under the Federal Alcohol Safety Action Project (ASAP) program previously described.

We have also looked at technological vehicle-in-use alcohol countermeasures for drunk driving. We have investigated devices for installation in vehicles that could alert a driver that he is too drunk to drive. In addition, our agency and the Federal Highway Administration have considered possible changes in roadway environment. We have studied improvements in the marking of signs and lanes that could help an alcohol-impaired driver stay on the road.

We have done a great deal of research; some of it has been quite fruitful; some has not. Our present research and demonstration program is trying to work in those areas of greatest need and promise. Yet, based on existing knowledge, we believe that the introduction of an ASAP-type alcohol safety program in each State and in major cities and towns, with the elements prescribed by the Pell bill, would be the most effective approach to deal with the drunk driving problem.

Senator FORD. The next witness is Mr. Charles Hurley.

STATEMENT OF CHARLES HURLEY, EXECUTIVE DIRECTOR, FEDERAL AFFAIRS, NATIONAL SAFETY COUNCIL; ACCOMPANIED BY HARRY N. ROSENFIELD, GENERAL COUNSEL

Mr. HURLEY. Good morning.

Senator FORD. We hope you could highlight your statement. We want to get as much testimony in this morning as we can before the time runs out on us.

Mr. HURLEY. Thank you, Mr. Chairman.

I am Chuck Hurley, executive director, Federal affairs, National Safety Council. Joining me is Harry Rosenfield, general counsel.

Senator FORD. Thank you.

Mr. HURLEY. The National Safety Council is a nongovernmental, nonprofit, public service organization chartered by the Congress and has been involved in this area for many years.

Back in 1936, the Committee on Intoxication was established by the Council. Now known as the Committee on Alcohol and Drugs, it has some 80 of the foremost authorities on alcohol-impaired driving in the country.

The committee developed much of the policy and background information. It has led in chemical testing and procedural guidelines as well as education and training materials for enforcement personnel and public alike.

Drinking is thought to be a factor in at least half of all fatal motor vehicle accidents. Studies show many of these accidents involve but one moving motor vehicle, and all too often the victims are young people between the ages of 16 and 34.

A 1975 to 1977 study conducted by the South Carolina Commission on Alcohol and Drug Abuse indicated while 69 percent of the fatally injured drivers over 65 had no alcohol in the blood, some 75 percent of those drivers 24 to 34 of age had alcohol involvement.

These kinds of statistics, when related to those over 10 to 15 years ago, illustrate a point that concerns all of us. Little progress has been made in getting drunk drivers off the road. Although many federally funded State highway safety programs have made an impact, it appears the greater concentration must be given to the alcohol area.

In previous testimony before this committee, the council stressed the need for program flexibility at the State level. This remains true; but, on the other hand, for certain priority national highway safety issues with highest payoff in fatality reduction—such as 55 miles per hour speed limit programs and drunk driving—national emphasis, direction, and funding are required.

Those of us in the safety field have been perturbed because of the desire of Congress to drastically slash the safety funds available to the States. Realizing that some States have not put all their funds to the best of use, others have done well.

It's the Council's position that these programs should be allowed to continue and proper guidance be given to assist State and local governments to foster more productive endeavors. This is not the time to needlessly restrict or impede those safety areas. Health and safety must be given added emphasis, not less, to protect our precious human resources.

Mr. Chairman, S. 2816 contains very positive features, and the Council supports the bill with the following six recommendations for further improvement in strengthening it.

First, preventive education. S. 2816 could be strengthened by a requirement for preventive education programs and public information dissemination to highway users. One of the apparent shortcomings in present alcohol programs is the expenditure of too much time and effort on after-the-fact treatment at the expense of preinvolvement considerations.

Second, effective enforcement. If we are to achieve effective programs in our attempts to reduce alcohol-related fatalities on our highways, legislation must be created and/or revised to unify the hands of the policies in properly enforcing existing drinking and driving laws.

Third, improved adjudication. Achieving satisfactory adjudication of drunk driving arrests has been one of the most frustrating aspects of traffic safety programs. It's not unusual to hear of courts with conviction rates of less than 50 percent. This is most discouraging to enforcement officials who feel they have made valid arrests only to have the court revise or reduce charges because an offender may face a jail term or loss of a license.

Providing a comparable term of community service as an alternative to imprisonment could prove to be an educational vehicle for the convicted offender as well. S. 2816 should also provide for the training of judges in this safety area. And in providing mandates for all persons convicted of driving while under the influence, the bill should also require that the final disposition of the case indicate the alcohol-related nature of the original charge.

Fourth, driver assessment. A strong legislative action at the State level should also include a requirement to engage in an assessment program through, the driver licensing process of drivers with records of offenses that are seemingly alcohol related.

Fifth, drug use research. The subject of drug use research, other than alcohol, is not broached in this bill. While it's clear that alcohol is the predominant problem, further research should be directed at the increased usage in our society of both legal and illegal drugs, including the sometimes synergistic interaction.

Sixth, additional funding. As a specific national priority with a potential of high payoff in the reduction of fatalities and injuries, alcohol programs should be specifically funded by the Congress in addition to section 402 funds.

Our statement goes on to discuss the programs in New York, Delaware, and Wisconsin that we think could well be models for other States. Obviously, there are other States that have countermeasure programs worthy of applause, but too many have done too little.

It's necessary to provide impetus by State or Federal legislation so that effective countermeasures to the drinking-driving problem can be effective in all States.

Mr. Chairman, the National Safety Council supports the legislation by Senator Pell with the recommended improvements and urges favorable action by the committee. In the event that final action cannot be taken in time before this Congress adjourns, we strongly recommend that more extensive hearings be held early next year.

With that in mind, we intend to submit the testimony of these hearings to the Council's Committee on Alcohol and Drugs for their review and findings on ways to make the legislation even more effective. We would be pleased to work with members of this committee and your staffs in this effort.

In conclusion, for over 70 years our Nation has dealt with the drunken drivers primarily on the theory of "don't drink and drive." We have learned that this is not enough. More consideration must be given to educational programs, of course, but legislation to enhance the enforcement and adjudication mechanisms is essential. Only then can the attitude of the public be properly affected and carnage on our highways diminished.

We thank you for the opportunity to appear. We would be glad to respond to questions now or in writing.

Senator **Ford**. Thank you very much. I appreciate your statement. I will ask two or three questions and then submit others in writing.

Based on your experience, how often do you think a 10-day mandatory jail sentence will be imposed?

Mr. **Hurley**. As Administrator Claybrook indicated, there is a major concern that the tougher the sentence, the less often they are imposed. The alternative sentencing provided in Senator Pell's bill may be a constructive way around that problem.

Senator **Ford**. Do you think alternative service will be used more times than the imposition of mandatory jail sentence?

Mr. **Hurley**. It's important that whatever sanctions are provided for in the bill actually be imposed, that they be realistic and be carried out.

Senator **Ford**. In your opinion, in dealing with various States—and I know you have connections with all the States—do you think there are sufficient funds here for the States to desire to comply with this Federal law?

Mr. **Hurley**. I would hope the States would take advantage of the program.

Senator **Ford**. You hope. What would be your judgment as to what the States would do?

Mr. **Hurley**. I would think most States would comply with the law and would carry out the program.

Mr. **Rosenfield**. If I may, one of the reasons we suggested additional and specific funding was to cope with the very problem you have indicated.

Senator **Ford**. It will be very difficult to get additional funding. I am concerned that there will not be a sufficient amount to make it attractive to the States.

I am concerned about the real world, about local judges, county judges, others that will have the opinion that we are usurping their authority and their ability to make decisions, elected by their own people.

There could be an outcry that we are beginning to tell the judges what to do. They think that's their prerogative. I see a sensitive area in which we might be engaged.

I am not sure that the additional funds would be available. Senator Pell not is asking for anything like that in his legislation.

Mr. **Rosenfield**. Part of the experience that Senator Pell put into this bill derives from the experience of the American Bar Association in the education of the judges for this very purpose. This is one of the reasons that, as Mr. Hurley has testified, that is a very useful and already accepted procedure.

Senator **Ford**. You conducted a survey of the States to determine whether this problem could be better addressed with additional police officers.

Did your survey show that additional police officers were necessary?

Mr. **Hurley**. We would be glad to respond to that in writing. Obviously, a number of the States did hire additional police personnel under the alcohol safety action project.

Senator **Ford**. Fine.

Senator Pell?

Senator **Pell**. Thank you, sir.

What percentage of the deaths on the highway are caused by drugs as opposed to those caused by alcohol?

Mr. **Hurley**. I don't have a specific figure. My understanding, as it relates to drugs, is that it's relatively small. Alcohol is by far the predominant problem.

Senator **Pell**. Is there anything you might submit for the record, the broad percentages here?

Mr. **Hurley**. We would be glad to look at that. One of the problems is alcohol in combination with drugs, which sometimes has a synergistic effect.

Senator **Pell**. Do you think from your experience that some of the judges might welcome a mild sentence as the alternative service would be so they didn't get into the business of plea bargaining and the position they sometimes find themselves in?

Mr. **Hurley**. Yes, I do. I think the alternative sentencing would also deal with the problem where in plea bargaining many times the final disposition of the case does not indicate the alcohol-related nature of the original charge.

Senator **Pell**. Thank you.

Senator **Ford**. How complicated is the system of trying to determine the facts? I know you come to a decision as it relates to dollars and injuries, et cetera. But how comprehensive is the report that you have? How accurate is it?

Mr. **Hurley**. As it relates to costs?

Senator **Ford**. All those things you put together to put out statistics. You are the one we read about on Monday morning.

The figure of $30 billion has been thrown at us today of injury, compensation. loss of income from druken driving accidents. If we are going to get that kind of information, it may be that the program may need additional funds, as you say, and we need that to back up the request.

Mr. **Hurley**. We would be glad to provide that.

Senator **Ford**. Do you have any other questions?

Senator **Pell**. No. Thank you.

Senator **Ford**. Thank you, Mr. Hurley and Mr. Rosenfield, for your testimony. Your statement will be in the record in full. We will have questions to submit to you.

[The statement follows:]

STATEMENT OF CHARLES A. HURLEY, EXECUTIVE DIRECTOR, FEDERAL AFFAIRS AND HARRY N. ROSENFIELD, GENERAL COUNSEL, NATIONAL SAFETY COUNCIL

Mr. Chairman, the National Safety Council is a nongovernmental, nonprofit, public service organization chartered by Congress to work to prevent accidents.

The National Safety Council has been involved in activities related to alcohol and traffic safety for many years. Back in 1936, the Committee on Tests for intoxication was established by the Council. Now known as the Committee on Alcohol and Drugs, it is composed of eighty of the foremost authorities on alcohol and impaired driving in our country today. This Committee has developed much of the policy and background information that has led to implied consent legislation, chemical testing procedures and guidelines, bases for expert court testimony, as well as educational and training programs for enforcement personnel and the public alike.

I cite this role of the National Safety Council primarily to emphasize the interest we have in the drinking/driving problem. It is the policy of the Council that by reducing drunk driving we can make major reductions in the total traffic toll. But, to achieve a reduction in drunk driving on our nation's highways requires the cooperative efforts of lawmakers, the judiciary, enforcement, safety agencies, licensing bureaus, social services and, of course, all of our highway users alike.

DRINKING—A CRITICAL TRAFFIC ACCIDENT PROBLEM

Drinking is indicated to be a factor in at least half of all fatal motor vehicle accidents. Studies show that many of these accidents involve but one moving motor vehicle and, all too often, the victims are young people between the ages of sixteen and thirty-four.

In a 1975–1977 study conducted by the South Carolina Commission on Alcohol and Drug Abuse, 69 percent of fatally injured drivers over 65 had no alcohol in their blood. Of fatally injured drivers in the 25 to 34 years of age group, 75 percent had some alcohol involvement.

CONGRESSIONAL ROLE

These kinds of statistics, when related to those of ten to fifteen years ago, illustrate a point that concerns all of us; little progress has been made in getting the drunk drivers off the road. Although many federally funded State highway safety programs have made an impact in paring the mileage death rate, it appears that greater concentration must be given to the alcohol area. In previous testimony before this Committee the Council stressed the need for program flexibility at the State level. This remains true, but on the other hand, for certain priority national highway safety issues with highest payoff in fatality reduction (such as 55 MPH speed limit programs, occupant restraint usage, and drunk driving), national emphasis, direction and funding are required.

S. 2816 proposes to require each State to establish a comprehensive alcohol-traffic safety program in each of its major political subdivisions. This proposal is a major step in the right direction. The National Safety Council recognizes the need for much stronger efforts on the part of many State and local governments.

Those of us in the safety field have been perturbed of late because of the desire of the Congress to drastically slash the safety funds available to the States. Realizing that some States have not put their funds to the best of use, others have done well. It is the Council's position that these programs should be allowed to continue and proper guidance be given to assist State and local governments to foster more productive endeavors. This is not the time to needlessly restrict or impede the safety efforts. In a period of deteriorating economy, health and safety must be given added emphasis, not less, in order to protect our precious human resources.

CONCERNS OF THE NATIONAL SAFETY COUNCIL

Alcohol and traffic safety, though basically singular as an issue, is many-faceted in its proposed solutions. Alcoholism and problem drinking are health problems. They are problems that often create other problems; in employment, in financial affairs, in marital and personal relationships. And yes, in some instances, other factors can compound the alcohol problem. Alcoholism must be dealt with in the work arena, in the schools and churches, by social service agencies, and by the medical profession. The use of alcohol is not a traffic-related problem alone nor can the safety professionals be expected to single-handedly resolve the drinking-driving situation.

Some years ago, our Committee on Alcohol and Drugs developed A Model Program for The Control of Alcohol for Traffic Safety. I would like to recite several points from the model program:

"Each State must have a program designed to minimize the contribution of alcohol as a causative factor in traffic accidents. The program shall include educational and legal elements and a means for continued program evaluation. It shall be a balanced program emphasizing both preventive and punitive features of control of alcohol for traffic safety."

"Each State shall provide, through its system of education, teaching materials relevant to alcohol and traffic safety to educational institutions, especially secondary schools."

One of the primary concerns of the National Safety Council, relative to alcohol and driving, is the need to devise preventive measures among teenagers. Even more important, perhaps, is the need to educate youngsters at lower grade levels in the many ways that the improper use of alcohol can negatively affect a person's life. A concentration of program efforts among the younger generations will, hopefully, decrease the need for more punitive measures to be enacted in future years. As a society in general and for lawmakers in particular more attention must be paid to prevention.

PROPOSED RECOMMENDATIONS

Mr. Chairman, S. 2816 contains some very positive features, and the National Safety Council supports the Bill, with the following six recommendations for improvement and strengthening.

(1) *Preventive education.*—S. 2816 could be strengthened by a requirement for preventive educational programs and public information dissemination to highway users. One of the apparent shortcomings in present alcohol programs is the expenditure of too much time and effort on after-the-fact treatments, at the expense of pre-involvement considerations. The need to properly instruct drivers in alcohol use and abuse led the Safety Council to develop its Drinking, Driving and You supplement to our Defensive Driving Course. Both beginning and seasoned drivers are given a definitive look at alcohol and its effects on the human body as well as on the driving task. This program has been adapted to some State and local countermeasure efforts.

(2) *Effective enforcement.*—If we are truly achieve effective programs in our attempts to reduce alcohol-related fatalities on our highways, legislation must be created and/or revised to untie the hands of the police in properly enforcing existing drinking and driving laws. Some States have made progress in this direction through the adoption of pre-arrest screening laws and the enactment of "illegal per se" levels to evidence intoxication rather than relying on "presumtive" levels. This eliminates the need to develop corroborating evidence to further substantiate the arrest.

(3) *Improved adjudication.*—Achieving satisfactory adjudication of drunk driving arrests has been one of the most frustrating aspects of traffic safety programs. It is not unusual to hear of courts with conviction rates of less than 50 percent. This is most discouraging to enforcement officials who feel they have made valid arrests only to have the court revise or reduce charges because an offender may face a jail term or the loss of a driver's license. Providing for a comparable term of community service as an alternative to imprisonment could prove to be an educational vehicle

for the convicted offender as well. S. 2816 should also provide for the training of judges in this vital safety area. In providing for mandates for all persons convicted of driving while under the influence, the Bill should also require that final disposition of the case indicate the alcohol-related nature of the original charge.

(4) *Driver assessment.*—A strong legislative action at the State level should also include a requirement to engage in an assessment program, through the driver licensing process of drivers with records of offenses that are seemingly alcohol-related. Again, it may be possible through such an activity to preclude some drivers from becoming involved in a driving incident related to alcohol use. Effective assessment can lead to rehabilitative or punitive programs that relate to specifically identified problem drivers as opposed to less focused present efforts in the absence of such assessment.

(5) *Drug use research.*—The subject of drug use, other than alcohol, is not broached in this Bill. While it is clear that alcohol is the predominant problem, further research should be directed at the increased usage in our society of both legal and illegal drugs, including the sometimes synergistic interaction.

(6) *Additional funding.*—As a specific national priority with the potential of high payoff in the reduction of fatalities and injuries, alcohol programs should be specifically funded by the Congress in addition to Section 402 funds.

SUCCESSFUL STATE PROGRAMS

A number of States have realized progress in their alcohol and traffic safety efforts. Certainly we should recognize some of these programs and perhaps advocate them to the patterns for other States.

In 1968, the New York State legislature enacted legislation which authorized the Department of Motor Vehicles to conduct experimental alcohol safety programs. The legislation was revised, in 1975, to give the Department of Motor Vehicles the authority to establish a statewide drinking driver rehabilitation program, known as the Drinking Driver Program, to be supported by client fees. The revision also contained the provisions for restricted and conditional licensing of drivers participating in rehabilitation programs.

An illegal per se law of 0.10 percent blood alcohol content, with an implied consent provision, was enacted in New York in 1972. Police recruit training in New York calls for 32 hours of instruction in alcohol enforcement.

A record of all 'driving while intoxicated' convictions is maintained by the Department of Motor Vehicles in driver license files for a period of ten years from the date of violation. Alcohol safety workshops have been conducted for pertinent local officials. Over 70,000 motorists have participated in the Drinking Driver Program since 1975.

Some states such as Delaware have legislatively established first offense programs whereby drivers arrested for the first time can elect to attend an eight session, sixteen hour program through the Delaware Safety Council in lieu of going to trial. The license is automatically suspended, but can be conditionally reinstated after four weeks, and fully reinstated after six months if all aspects of the program are satisfied. The first two years of the program will be completed in July and preliminary results appear very successful. A full evaluation is to be submitted to the Delaware General Assembly in 1982.

The State of Wisconsin has also recently made inroads in coping with the drinking driver problem through improvements in their alcohol countermeasure programs.

Only July 1, 1980, Chapter 193 of Wisconsin Statutes, related to implied consent and operating while intoxicated (OWI), was in effect for two years. After a period of revising, refining and reorganizing, the support systems for Chapter 193 have reported encouraging results.

The enforcement segment of Chapter 193 is encountering record OWI arrests statewide, with the assistance of Wisconsin's Concentrated Accident Reduction Effort projects in thirty of their seventy-two counties. Last year, Wisconsin officers made over 36,000 OWI arrests compared to 31,553 in 1978 and 24,712 in 1977. Statewide, they have experienced a 47 percent increase in OWI convictions since 1977, from 18,019 in 1977 to 26,483 in 1979.

From the court standpoint, many judges (both municipal and circuit) are getting "tough" with the drink driver. Extensive training sessions have been held for municipal judges in the adjudication of traffic offenses, including a two-day graduate seminar focusing on the processing of speed citations by radar and OWI cases. In conjunction with this training, regional statewide Chapter 193 Countermeasure Workshops for law enforcement personnel, districts attorney, judges, Group Dynamics—Traffic Safety School instructors, Alcohol/Drug assessors, and driver licensing personnel are being conducted. The main thrust of these workshops is to encourage the establishment of an interagency committee to work together to solve abusive drinking driving problems locally.

Obviously, there are other States that have countermeasure programs worthy of plaudits. But too many have done little. It is necessary to provide impetus, by Federal or State legislation, so that effective countermeasures to the drinking driving problem can be effected in all States.

Mr. Chairman, the National Safety Council supports the legislation by Senator Pell with the recommended improvements and urges favorable action by the Committee. In the event that final action cannot be taken in time before this Congress adjourns, we strongly recommend that more extensive hearings be held early next year. With that in mind we intend to submit the testimony of these hearings to the Council's Committee on Alcohol and Drugs for their review and findings on ways to make the legislation even more effective. We would be pleased to work with the Members of this Committee and your staffs in this effort.

In conclusion, for over seventy years, our nation has dealt with drunken drivers primarily on a theory of "don't drink and drive." We have learned that this is not enough. More consideration must be given to educational programs, of course, but legislation to enhance the enforcement and adjudication mechanisms is essential. Only then can the attitudes of the public be properly affected and carnage on our highways diminished.

The National Safety Council thanks you for the opportunity to appear before you today.

[The following information was subsequently received for the record:]

NATIONAL SAFETY COUNCIL,
Chicago, Ill., July 16, 1980.

Hon. WENDELL H. FORD,
Chairman, Consumer Subcommittee, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR SENATOR FORD: During the National Safety Council's testimony on S. 2816, The Alcohol-Impaired Driver Act, presented on July 1, 1980, the Council agreed to supply the Committee with further information concerning (1) additional hiring of police manpower for enforcement, (2) the reliability of the Council's cost estimates, and (3) fatalities attributed to drug use. Here is the additional information.

1. Will S. 2816 require an increase in police manpower?

One of the problems in achieving traffic safety objectives in general is a lack of enforcement manpower. Each time the existing police manpower is asked to focus on selective enforcement toward a given violation, e.g., 55 mph speed limit, alcohol, hazardous locations, it is at the expense of other areas of enforcement. Normally, greater manpower means greater enforcement capability, but it is not absolute. However, an alternative to greater manpower for greater enforcement of alcohol-impaired driver laws is public education. An informed and educated public, supporting the existing laws, would require less enforcement capability and would enable "well-trained" officers to do a better job of getting the adamant drinking drivers off the highway and into the court rooms where knowledgeable and concerned judges can exercise due process based on legislative mandates.

2. How reliable are the National Safety Council's traffic accident cost estimates?

The Council's annual estimate of the cost of traffic acidents is an attempt to measure the economic losses to society that result from traffic accidents. The estimate is conservative in the sense that it covers only measurable losses that occur each year. It does not include losses such as pain and suffering, loss of parental guidance, inconvenience, mental anguish or other real losses suffered because of traffic accidents that cannot be readily translated into dollar amounts. Our intent is to gauge those cost elements that relate directly to the economy and thus our figures not only illustrate the economic impact of traffic accidents but also can be compared to other economic indicators such as gross national product, per capita income, taxes, etc. The council's traffic accident cost estimates accurately reflect the value of the components it is intended to measure. The estimates represent dollars that had to be spent—medical expense, insurance administration, and motor-vehicle damage—and dollars that will not be received—wage loss—because of traffic accidents.

This approach results in cost estimates that may reasonably be used to assess the economic benefits of accident prevention programs. The use of societal costs rather than economic costs results in accident cost estimates so high that almost any program would have a favorable cost/benefit ratio. This does not mean that such unquantifiable losses should be neglected. It only means that they should not be considered in purely economic arguments.

In its estimating procedures the National Safety Council uses data from as many sources as possible to insure the reasonableness and accuracy of both individual cost elements and overall total costs. Numerous checks are performed whenever additional data become available. When various sources disagree, the Council tries to discover the reasons for these differences in order to determine which source or variety of sources most accurately reflect the true losses suffered.

Some of the calculations are not necessarily performed in full each year. Instead, a benchmark cost per case may be established and adjusted each year to account for inflationary changes. Estimates of the number of cases, however, are made each year. This procedure assures that each cost element is the best estimate for the current year, while minimizing the number and complexity of the calculation involved. The system takes into account changes in the number of cases as well as changes in the unit cost of each case.

3. What percent of traffic fatalities are attributable to drug use?

Limited data are available on the role of drugs other than alcohol in motor-vehicle accidents or fatalities. A review of several special studies conducted in the early seventies revealed that 11 to 13 percent of the drivers involved in accidents had some sort of drug other than alcohol in their systems.

A study conducted by the Office of the Chief Medical Examiner, North Carolina Department of Human Resources, found that drugs other than alcohol were a factor in about 20 percent of pedestrian fatality cases.

We hope that this will assist the Committee in its deliberations on S. 2816.

Sincerely,

HARRY N. ROSENFIELD,
General Counsel.

Senator FORD. The next witness is Mr. Edward Walsh.

STATEMENT OF EDWARD J. WALSH, GOVERNOR'S HIGHWAY SAFETY REPRESENTATIVE, PROVIDENCE, R.I.

Mr. WALSH. Thank you. I am Edward J. Walsh, director of Gov. J. Joseph Garrahy's Office on Highway Safety for the State of Rhode Island. I have held that position for the past 8 years.

I come before you today as a member of the National Association of Governors' Highway Safety Representatives, the membership of which is composed of the 50 States, territories of the United States, the Indian state, and the District of Columbia. The individuals representing that membership are the people responsible for the conduct of the Governor's highway programs mandated by the Highway Safety Act of 1966, as amended.

I am most appreciative for this opportunity to speak on behalf of Senator Claiborne Pell's bill S. 2816, which would require the establishment of a comprehensive alcohol traffic safety program in each State, aimed at discouraging driving under the influence of alcohol. At this point we would like to endorse his bill wholeheartedly, with one exception which will be explained later in my testimony.

First of all, let me explain the serious problem that we encounter nationally each year relative to drunk drivers. Last year 19,555 Americans were murdered, while 25,000 Americans were killed by drunk drivers according to statistics both from the National Highway Traffic Safety Administration and National Safety Council.

Over the last decade the number of people being killed because of alcohol has remained almost constant. What this means, gentlemen, is that over the past 10 years a quarter of a million lives have been lost in America due to drunk drivers.

In my testimony on behalf of Governor J. Joseph Garrahy's drunk driving bill before the Rhode Island General Assembly just a few months past, I compared a drunk driver and reckless driver whether at nighttime or daytime as being no different than a murderer with a loaded gun, except in this situation the driver is the gun and the automobile is the bullet.

Notwithstanding the fact that last year alone 25,000 Americans died because of drunk drivers, the facts are clear and simple that another million Americans were injured in automobile accidents and that the annual cost of medical payments and property damage ranges upward of $30 billion. Similarly, each highway fatality costs our taxpayers somewhere in the vicinity of $150,000 to $200,000 for each fatality.

Yet, unlike murderers who almost always stand trial and receive some sort of jail sentence, drunken drivers rarely if ever go to jail. Sometimes they kill only themselves, but even when they kill other innocent victims society does not look on them as murderers. The prevailing attitude is that they did not mean to kill anyone and that the punishment of living with the memory of killing somebody else is punishment enough.

However, the people involved first hand with highway deaths and in particular drunk driving deaths are not so charitable. From the police and fire departments to the doctors and nurses in the emergency rooms, and most importantly to the families of these traffic victims, this Nation is not being tough enough on drunk drivers.

Policemen, firemen, emergency medical personnel, doctors, and nurses are always passed off as wanting mandatory fines for everything. Yet they are the people who see the twisted, mangled bodies of drunk drivers as killing themselves or killing innocent victims. Nothing is more tragic than a drunk driver living and an innocent victim being killed, especially when it is a small child.

Crystalizing the problem even more, the profile of the most likely person to be killed because of alcohol never changes. Approximately 25,000 killed each year because of alcohol in the young drunken driver between the ages of 16 to 25 years old who is being killed or killing someone else late at night between the hours of 10 p.m. and 4 a.m. This profile is always the same and remains constant both for Rhode Island and nationwide.

This wasting of American youth is tragic. It is a known fact that alcohol has now taken over among young people as the No. 1 drug in our country. In 1979 Newsweek did an expose on the hows and whys of the growing problems of drunk driving. They are simple—beer, wine, and even so-called hard alcohol are cheaper and easier to get than drugs and are legal.

Gentlemen, for most people, alcohol starts to have an effect on their brain as soon as they start drinking. This is all within a 1-hour period. For a 150 pound person, one or two drinks brings his or her blood alcohol content up to 0.03 percent. Even at this relatively low level, judgment decreases and the person becomes less inhibited. Confidence increases as physical skills begin to decrease. For a drinking driver, this psychological effect is more dangerous than the more readily observed changes in physical skills that accompany slightly higher blood alcohol concentration.

After only two or three drinks within this hour, the blood alcohol content has reached between 0.03 percent and 0.05 percent. At this point, vision starts to be severely impaired. Every drink is like adding a gray filter before your eyes.

At a BAC level of 0.05 percent, vision is reduced enough so that tunnel vision starts to develop. Side vision drops off and accidents at intersections become highly more likely.

By the time a person has had his fourth drink, the sense of balance and muscle sense begins to drop off. The person's sense of the car's position on the road seriously diminishes. Response becomes late and is usually exaggerated.

About the time an average 150-pound person has consumed his or her fifth drink, the BAC has reached 0.10 percent. This is within an hour, which is defined by the laws in 48 of 50 States as driving while intoxicated (DWI). Gentlemen, at this point in time, an intoxicated 20-year-old in peak physical condition has the reflexes of a 50-year-old, vision diminished to age 70, hearing dulled to 75, and the coordination of a sober 90-year-old. Gentleman, the chances of having an accident are now more than 25 times greater than if the individual was completely sober.

Senator Pell's bill would provide a first step toward alleviating this horrible problem. Both State and local government need comprehensive alcohol traffic safety programs, and the mandates under Senator Pell's bill for 10 days' imprisonment or a comparable term of community service as an alternative to prison is a sound and reasonable approach as is participation in a safety or alcohol program, coupled with proper monitoring to insure court compliance with its sanctions.

Yet license suspension as provided in this bill for a first offender for a period of up to 1 year in our opinion is the most important part of Senator Pell's provision that the denial of the license is much more severe than a 10-day jail sentence or a public service commitment. Driving a car, gentlemen, in our opinion is a privilege; not a right. And the Senator's call for revocation of license upon a second conviction or suspension within a 3-year period is also sound.

This is not to say that we disagree with the 10-day jail sentence or alternative community service provision. We feel that this is also a serious deterrent in preventing people from drinking and driving. It is long past due.

This bill goes a long way toward addressing a national problem and the time for its enactment is now. However, we feel that there is one provision within Senator Pell's bill that is lacking; Federal money. In order for all States and their Governors to administer properly a highway safety program of this magnitude, an infusion of Federal dollars is a must. We realize that this Congress is concerned with a balanced budget, but this Congress must realize that State and local governments are feeling the pinch also.

Second, we are finding out in all of the States and local political subdivisions which have alcohol traffic safety programs that the majority of times people who don't kill or injure anyone and who are arrested and convicted of drunk driving or refuse to take a breathalyzer are young blue collar workers and in many cases are unemployed, have serious marital problems, are suicidal, or are on the verge of becoming an alcoholic, or are indeed an alcoholic.

I ask you, what good is a comprehensive alcohol safety program going to do by arresting an alcoholic, or an unemployed person, or man or woman who has just had a serious domestic fight and has gone out for a toot? Society's job does not end with the arrest of a drunk driver.

I ask you, what good is an alcohol traffic safety program unless the alcoholic or problem drinker can be referred to a detoxification center, the unemployed to a job counselor, the marital problem to a marriage counselor or religious institution, the suicidal to the proper State or local agency for professional psychiatric help?

Many of the people arrested have serious problems. This is why they are drunk. Do we just convict them, send them to jail, and to a drunk driving program which calls for movies on drunk driving, and then let them go? The answer is obviously no.

A comprehensive alcohol traffic safety program should be coupled with increased Federal moneys for law enforcement to enforce all States' drunk driving laws and Federal moneys to establish sophisticated and professional alcohol treatment programs to assist those who most seriously need it.

Therefore, it is our recommendation that Senator Pell's bill provide for under subsection (b)1 of section 402 of title 23, of the U.S. Court as amended under section (H) be amended to read as follows to establish a comprehensive alcohol traffic safety program and each political subdivision that: (1) is coordinated by the several States highway safety program and filtered down to local political subdivisions and is financially supported by an appropriation of $25 million under section 402 of the Highway Safety Act.

Gentlemen, we need this Federal money, for if this bill passes as it is written now, the DOT, namely NHTSA, will mandate under our present and small allocation of $175 million nationally that the States spend a certain percentage of their Federal allocation on alcohol traffic safety programs which will seriously diminish the amount of Federal dollars which are now being utilized on other important highway safety programs such as motorcycle safety, pedestrian safety, emergency medical services, and police traffic services, just to name a few.

In summation, I would also like to point out that $25 million falls well within the NHTSA authorization for fiscal years 1981 and 1982. The NHTSA received $175 million under section 402 for fiscal year 1980 and the authorization for fiscal years 1981 and 1982 is $200 million. As you can see, all we are asking for is what Congress has already authorized.

I wish to thank you for your time, and I would be most happy at this time to answer any and all questions relative to this important matter.

Senator **Ford**. Mr. Walsh, you make a very convincing statement. One of the things that you mentioned was motorcycle safety. I happened to go through that problem when we mandated the helmet law in Kentucky because the Federal Government said, "If you don't do it we will take money away from you."

Mr. **Walsh**. They will, too.

Senator **Ford**. I understand. And we did. Then what happened to the helmet law? Two or three States hadn't complied with it and they just did away with it.

If a program is started and it works out, then I think it ought to stay. It gets very discouraging, and I know you know it better than some up here, when the Federal Government starts something and leaves the States hanging to try to keep it together with State and local funds.

Mr. **Walsh.** Rhode Island repealed its helmet law about 4 years ago. Since then we have seen a tripling of the number of motorcycle deaths. I am in contact on a weekly basis with our State medical examiner. Over 50 percent of these deaths occur because of alcohol, whether they are motorcycle or whether they are in an automobile.

Senator **Ford.** I am just saying that I understand Senator Pell's concern when he talks about his staff members that were involved in accidents. I can tell of a very close friend whose son was killed. If he had had his helmet on, all the medical people say it would only have been a bump. Without the helmet, because there was no law, they lost their son.

Now, as I listened to NHTSA this morning, they think the local entity should be self-supporting, that you don't need to ask for money from the Federal Government. You should have those fines harsh enough to be self-supporting.

Mr. **Walsh.** Let me relate to you Governor Garrahy's position this year in his drunk driving bill. We wanted to just go to the Rhode Island General Assembly and increase the drunk driving school in our State from a minimal $25 fee, which was self-supporting, to $75 because NHTSA has a provision that can be extended in certain instances to 6 years.

Normally they would like to see—as was pointed out, most programs are seed programs and last 3 years.

Mr. Bateman will be speaking after me. When we substituted the drunk driving law, it was a $25 fee and was self-supported. What I was pointing out in my testimony is that during the first 2 to 4 years, all the program provides for is an ongoing program where a judge comes to speak to the people; they are prescreened. When we were using NHTSA's 402 money, which was since cut off—now all we have is the self-supporting program of those people who are using their own money because they are being penalized for drunk driving, which I fully support.

The program does not go into depth. It doesn't follow, for example, that an alcoholic or a problem drinker or marital problem or suicidal—we have no basis, is what I'm trying to say. The money, even if it's self-supporting, is not enough for a sophisticated, professional approach for prescreening of these people.

I noticed before you were talking about the record systems. Record systems cost millions of dollars. Where will we get this money for them to go along with a bill of this nature? The States don't have it. Every State is trying to keep within their State budget and every local city and town is trying to stay within their appropriate budget.

Nobody is going to help us in this regard. The only people we can go to are you, sir. We need this program.

Senator **Ford.** If you live within your budget at the State level and the community at the local level, Uncle Sam will start living within its budget for a change, so everybody will have to quit looking up here.

You say this is the only place to come.

Mr. Walsh. It is.

Senator Ford. Well, you will have to stop coming here.

Mr. Walsh. This is my first time.

Senator Ford. I'm just saying, we have a feeling that $25 million is peanuts. Yet every 2½ hours we send that much money overseas for oil; $25 million is peanuts. If that is enough to do it, we might be able to find it somewhere. I don't quarrel with the $25 million.

We might just tell NHTSA to carve that out of their funds and send it to you and let them stay within their budgeting level.

Mr. Walsh. I hope you don't do that. I hope you add it on.

Senator Ford. Why not?

Mr. Walsh. Because they will take it from other programs.

Senator Ford. Maybe this the most important program. We have to set priorities and use the money we have based on the ability to raise it and what the taxpayers will let us have.

Mr. Walsh. NHTSA has already been cut back from last year in my estimation. All I testified to is we be given what we received last year.

Senator Ford. You mean just keep it up at that level?

Mr. Walsh. Fine with me.

Senator Ford. Everybody will have to tighten their belt a little. But the point is will it be self-supporting financially? Because as you point out, who are the ones arrested? They are unemployed. They have marital problems. People who probably have very little money. They will have to go to jail because they can't pay the fine.

I probably couldn't sit here and make some sort of judgment about this if I was a lawyer because I would get too deeply involved in the defense.

Mr. Walsh. My whole family comes from lawyers so I don't want to say anything.

Senator Ford. They tell me blood is thicker than water.

Do you think that withdrawal of 402 money is enough of an incentive to prompt the States to change their treatment of drunk drivers?

Mr. Walsh. I don't think, for example, in the State of Rhode Island that would be the case. For example, the State of Rhode Island receives, between the Federal Highway Administration and NHTSA, approximately $1 million. No, I don't think it would have an effect.

Senator Ford. Do you feel this bill might be resisted by the States?

Mr. Walsh. I don't think so. I go back to the fact. How can you get away from the fact that 25,000 people lose their lives every year? Who can be against trying to save the lives of a 3- or 4-year-old child or a 16- or 17-year-old girl or boy?

Senator Ford. What if your legislature thinks your job is sufficient in this arena and doesn't care whether Uncle Sam gives them money or not? Many States are taking that attitude with larger sums than this.

Mr. Walsh. I would say in Rhode Island we welcome all Federal funds, Mr. Chairman.

Senator FORD. I see Ms. Claybrook schooled you well.

Mr. WALSH. I like her.

Senator FORD. What do you think is the likely effect of a mandatory jail sentence in the courts?

Mr. WALSH. I think what you said before—what happens—for example, I can only relate to New England and especially to the State of Rhode Island. Lawyers get in there and plea bargain, and in most instances, even in Senator Pell's instance, the public service commitment will end up being 9 out of 10 times what the person will come out with; not the 10-day jail sentence.

I can see on a repeat performance or if the person goes before our district court system with many other violations—for example, breaking and entering, or driving without a license, et cetera—and has a long history of driving record problems, yes, he should be sent to prison for 10 days.

Senator FORD. We get back to the problem of finding out the history. If they are in different jurisdictions, there is no coordination.

Mr. WALSH. In Rhode Island, when somebody comes before a district court judge, unless he is a known criminal, they have no idea of the man's previous history.

What I'm saying is the $25 million could be used for record systems so that a district court judge—if Ed Walsh got convicted of drunk driving, he could go before the judge and the judge would have my entire history, whether for driving violations or criminal or misdemeanor type violations, before him, and make a more adequate determination.

Similarly, counseling services, the streamlining of their entire program cannot be done with just a self-supporting program. There has to be an infusion of Federal dollars with the expertise coming from NHTSA to help us set up these types of programs in order for the States to be able to administer these programs and for us to diminish the amount of deaths on our highways.

Rhode Island passed the most progressive highway safety program in the Nation, in my opinion. Our Governor has been a champion of highway safety since he took office. This is a high priority in our State.

Senator FORD. Each State has a different judicial system. Missouri, I think, was probably the leader in developing a model judicial system. I know ours in Kentucky has just been changed—the county judge used to be the presiding officer over all of these cases. We now have district judges and that responsibility has been removed from our county judges and now they are called judge executives; the executive officer of the county.

Do you foresee any resistance as it relates to the judicial system? Have you looked at that?

Are you representing the National Association of Governors Highway Safety Representatives? I happen to be a former governor, so you basically are representing some fine folks out there.

I want you to talk on a national basis, not just about Rhode Island.

Mr. WALSH. I don't know, as you have pointed out, all the judicial setups in every State. What I would say basically is that every judge, no matter what his title is, does not like mandatory suspensions, fines, jail sentences, et cetera.

A person who is appointed to the bench likes discretion as far as drunk driving or any other crime that might be brought before his particular judicial body. This, I believe, is the case in representing the National Association of Governors. I think nationally this would be the case.

Senator **Ford**. Senator Pell?

Senator **Pell**. I have one question.

On balance, speaking for the Governors, do you support this bill that is before us?

Mr. **Walsh**. Yes, I do.

Senator **Pell**. Thank you very much.

Mr. **Walsh**. I might add, Senator Ford, in summation, the House Appropriations has cut the 402 budget this year by $25 million.

Senator **Ford**. I am glad Ms. Claybrook gave you that information.

[The following was subsequently received for the record:]

State of Rhode Island and Providence Plantations,
Governor's Office on Highway Safety,
Providence, R.I., July 18, 1980.

Senator Wendell H. Ford,
Consumer Subcommittee, U.S. Senate, Committee on Commerce, Science, and Transportation, Russell Senate Office Building, Washington, D.C.

Dear Senator Ford: I would like to take this opportunity to thank you for inviting me to testify before your Committee on Commerce, Science, and Transportation. With respect to your letter of July 7, 1980, I apologize if I am a little late in responding, for I was on vacation and I did not realize you had corresponded with me. I will get right to the point and address each of the four questions you appointed to me and address them to the best of my ability.

Question 1. Isn't the root of the problem the attitude of police management toward drunken drivers?

Answer. Historically, judges throughout the nation value discretion in penalizing anyone for a drunk driving offense. In other words, no judge likes mandatory fines, sentences, or suspensions for this type of offense, for they feel it takes away their judicial powers and discretion. Police officers throughout the nation are frustrated by the amount of time and effort it takes to apprehend a drunk driver, bring him in for a breathalyzer, and appear for a drunk driving trial, which usually ends up with a very light sentence imposed by the judge e.g. $100 fine and no suspension of license. And oftentimes, if a smart attorney is involved, the case is usually filed and probation is imposed. As a reult of this, police officers, in my opinion, don't bother to take the time and effort to arrest drunk drivers. They feel it is fruitless because the drunk driver will be slapped on the hand and allowed back on the highways. In my opinion, based on my readings of national studies, it is a prevalent attitude not only in Rhode Island, but throughout the nation. So, in answer to this question, no, I do not blame the poor attitude of police management. I blame the judicial system for making a mockery of drunk driving trials. This is why we have such a problem with alcohol on a national basis, and it is especially true with juveniles.

Question 2. Do you think there should be different penalties for social as opposed to problem drinkers?

Answer. The penalty outlined in Senator Pell's bill is a mandatory 10-day jail sentence or a comparable term of community service as an alternative to imprisonment. In nine out of ten cases I would venture to say that a judge would sentence a social drinker to the public service alternative. And with respect to the problem drinker, a ten-day jail sentence would do absolutely no good.

This is the point in my testimony where I lobbied for alcohol treatment programs which I feel are so necessary. With these federal monies. states would finally be able to identify the problem drinker as opposed to a social drinker. These individuals could then be referred to the proper agency which could deal with the reasons why they became a problem drinker.

A three-tiered alcohol safety treatment program could go a long way in alleviating this problem. The three levels of individuals who drink are: (1) the social drinker; (2) the drinker on the verge of becoming a problem drinker; and (3) the alcoholic. A screening process is very much needed to determine into which category an individual would fall. After this has been accomplished, appropriate actions can be taken.

Finallly, I feel that the most effective penalty under Senator Pell's bill for a social drinker would be the suspension of license on a first offense and revocation of license for a three-year period on a second or subsequent offense.

Question 3. What do you think is the most important provision is S. 2816?

Answer. As I have stated previously, there are three types of drinkers. I feel that the most important provision of Senator Pell's bill depends on the type of drinker involved. If the person is a social drinker, then an appropriate answer might be a ten-day jail sentence or a comparable term of community service as an alternative to imprisonment. However, if the person is on the verge of becoming a problem drinker, there is no need or sense in sending that person to jail or requiring him to fulfill a public service commitment. He would be better off served if he was processed through an alcohol safety treatment program in order to determine the nature of his problem. His license should also be taken away until such time that this problem is under control. At this point the individual can once again become a productive member of society, rather than a hazard on our highways.

With respect to the problem drinker referred to under Senator Pell's bill (line 8, subparagraph b), participation in alcohol safety treatment programs is a must. First, however, a screening process must take place in order to determine if this individual is in fact a problem drinker. If this person is a problem drinker, his license should be suspended and he should be referred to an appropriate agency. For example, if the individual is an alcoholic, he might be referred to a detoxification center; if unemployed, to a job counselor; if having marital problems, to a marriage counselor or religious institution; or if suicidal, to the proper state or local agency for professional psychiatric help.

In essence, the penalty should depend entirely on the type of drinker and the kinds of problems he might be experiencing. Unless we are allocated the necessary funding to set up these types of treatment programs, this piece of legislation lacks the potency to significantly address the problem of alcohol on our highways.

Question 4. In a report for NHTSA on alcohol and highway safety in 1978, the University of Michigan's Highway Research Institute said and I quote, "it is entirely reasonable to believe that problem drinking-drivers should be treated rather than punished." Would you agree?

Answer. I totally agree with this concept, and I believe I have answered this question sufficiently within my previous statements.

However, as I have stated previously, in order to treat problem drinking-drivers, an infusion of federal dollars is needed.

I hope I have answered your questions satisfactorily, and I once again thank you for the opportunity which you have afforded me to testify before your committee.

Sincerely yours,

EDWARD J. WALSH,
Chief Coordinator.

Senator **FORD**. Good morning. We are pressed for time. I appreciate you coming this morning. I know you made a special effort to be here. We are pleased you could come, and I am sure it's through your friendship with Senator Pell. We are delighted to have you and want your statement in the record. I would hope you could highlight it and let us ask you a few questions, and I assure you your total statement will be in the record.

STATEMENT OF RALPH A. BATEMAN, PRESIDENT, AUTOMOBILE CLUB OF RHODE ISLAND, CRANSTON, R.I.

Mr. **BATEMAN**. Thank you. My name is Ralph A. Bateman, and I am the president of the Automobile Club of Rhode Island, a local affiliate of the American Automobile Association, with a membership of some 200,000 local motorists in the State of Rhode Island and Northern Bristol County, Mass. It is indeed a pleasure and an honor for me to appear before you and to discuss the most important and serious subject of drunk driving with specific reference to Senate bill 2816, the Alcohol-Impaired Driver Act, introduced by Senator Claiborne Pell.

The State of Rhode Island, due to its unique size, its broadly balanced social, educational, ethnic, and economic makeup, can, ideally, be considered a microcosm of our entire country. I believe that Rhode Island's experience in dealing with drunk drivers during the past 7 years will be helpful to this committee in considering the enactment of this legislation.

By way of background, the Rhode Island Driving While Intoxicated law, prior to 1974, provided an administrative and mandatory 1-year license suspension for any person convicted of driving while intoxicated. Conviction was classed as a misdemeanor, which carried with it a fine of up to $500, imprisonment of up to 1 year, or both.

In 1973, the Automobile Club of Rhode Island became very interested in the problem posed on our society by the drunk driver. In looking at the problem, we found that the penalties provided by law were actually counterproductive in effectively dealing with the drunk driver. In 1973, Rhode Island was arresting approximately 600 to 700 persons annually for DWI violations and yet our conviction rate was only approximately 100 to 125. Judges admitted that those convicted were mainly the poor, first-generation ethnic, blacks, and the young. Those who understood the law and were represented in court by counsel would either plea bargain or appeal if convicted.

In early 1974, there were some 700 DWI cases on appeal to the Rhode Island Superior Court, most if not all of which, were thrown out of court in later years in order to clear court backlogs.

In 1974 the auto club actively promoted, and was successful in seeing enacted, changes in the State's drunk driver law that would allow for greatly increased court discretion and establish within the State a DWI counterattack program, patterned after the highly successful DWI Phoenix program. The DWI counterattack program is an educational, alcohol screening and treatment referral program aimed at alcohol offenders.

The auto club, with the assistance of the district court judges, the Governor's Office on Highway Safety, the educational community and the alcohol treatment facilities in the State, worked together to establish the program in July 1974. This program is self-supporting through a $25 course fee paid by the student/offender and has been in existence now, successfully I might add, for the past 6 years.

During the program's first year, convictions rose from the approximate 110 conviction level to almost 1,000 convictions, and has continued to increase year after year to where there are between 2,500 and 3,000 convictions per year at the present time.

While on paper, we are happy with the discretionary approach for fines, jail sentences, and license suspensions, those of us actively involved with the persons convicted of DWI offenses realized that more had to be done. While drunk driving is classed as a motor vehicle violation, the person convicted actually represents a much deeper and more serious problem for society—that of alcohol misuse and abuse. The initial DWI conviction is an early warning of an actual or developing problem.

Through the DWI counterattack program we have found that one-third of the offenders are simply social drinkers who on at least one occasion drank to excess. However, another third of the class show early signs of social abuse of alcohol brought on by family difficulties, job-related problems or due to pressures of society.

The final third of those attending these classes is identified as having serious alcohol-related dependency. Usually the initial DWI conviction is the first occasion that alcohol abuse brings a person into contact with a governmental agency, normally the courts, and also provides the first opportunity to address the person's alcohol problem at an early stage.

During the recent session of the Rhode Island General Assembly, the auto club supported enactment of new drunk driving legislation that would strengthen and tighten our State's DWI laws. The changes were based on our experiences gained through active participation in the DWI counterattack program. Total discretion in administrating DWI laws seems to allow for too great a latitude in dispensing penalties. It was felt that certain minimum guidelines are needed so that specific standards must be met by a person convicted of drunk driving. The minumum penalties are to impress on the offender just how serious the State views the drunk driving offense and, yet, within the latitude of the court, the offender can be helped with the social problem alcohol abuse presents to the community as a whole. It is my feeling that this is the true and important consideration Senator Pell's proposed legislation attempts to address.

Rhode Island's new DWI law, enacted only weeks ago, provides for a minumum fine of $500 and/or license suspension of up to 1 year or imprisonment for 1 week and mandatory attendance at the DWI counterattack program. On a second conviction within 3 years, the following minimum penalties are provided: a mandatory fine of $500, and/or a mandatory license suspension of not less than 6 months nor more than 1 year or be imprisoned for 1 month and shall attend the DWI counterattack program. On third conviction in 3 years, offenders face a mandatory fine of $1,000, a mandatory license suspension of 1 year and attendance at the DWI counterattack program. While the current DWI counterattack program is being retained as phase 1 approach, plans are under way for a more intensive phase 2 program of counseling and treatment. Phase 2 would be used for second and third offenders and for additional referral of those first offenders identified to have an alcohol abuse problem.

Senator Pell's suggested legislation is quite compatible with the approach we have taken in Rhode Island. S. 2816 would provide for local coordination and administration of a basically self-supporting program to deal with the motor vehicle and social problems arising when those who drink to excess take to our highways. It would mandate that the courts consider the imposition of a 10-day jail sentence or a comparable term of community service. It would require participation in a safety or alcohol treatment program, such as the DWI Counterattack School. It would provide for a mandatory license suspension for first offenders of up to 1 year, but provides for the flexibility of allowing the person to retain the privilege of driving for work but on a restricted basis, such as excluding weekends. It would mandate a minimum 1-year license suspension for second or subsequent offenses in a 3-year period. Most important, it would provide for followup and monitoring to insure compliance with court sanctions, which would assure that persons with detected alcohol-related problems avail themselves of adequate treatment.

I am sure that there are those who will argue that the Congress has no business involving itself in the manner in which the States deal with the drunk driver. It is my belief, however, that the problem is not simply a motor vehicle violation, but one that transcends the individual's State's rights and is in reality a problem that impacts on our society and our country as a whole. Such minimum standards, therefore, would point the States in a desirable direction and assure the people of our country that we intend and demand that this problem be faced head on and in a way that provides the best benefits to all of our society.

While I am sure that the members of this committee are aware that safety experts agree that at least half of all fatal accidents are alcohol related, the problem of the drunk driver really goes much deeper. In 1979 in addition to the 51,900 persons killed on our Nation's highways, 2 million persons were injured as a result of motor vehicle accidents, a great percentage of these were also alcohol related. According to the National Safety Council, the total cost of all motor vehicle accidents in 1970 to the American public was approximately $37 billion, and I am sure alcohol abuse played the major role in amassing this astounding cost.

Mandatory guidelines, such as proposed by Senator Pell, which include flexibility and discretion in the imposition of penalties and a national desire to approach the drunk driving problem from both a motor vehicle and social viewpoint, are most definitely needed. Senator Pell's legislation is a rational, logical approach to the drunk driving problem and an approach that is born out by the firsthand experience gained in Rhode Island through the DWI counterattack program and in similar programs in other States across the country.

The courts should not only be thinking of punishing the DWI offender for the transgression of a motor vehicle law, but should be using the transgression as an opportunity to rehabilitate the offender in ways that will ultimately benefit all of society. The tools to accomplish this necessary public action are contained in Senator Pell's legislation, and I would ask that you consider enactment of S. 2816 for the benefit of all the citizens of our country. Thank you.

Senator **Ford**. Thank you very much.

I have two or three questions to ask you. We are getting into the harshness of the fine and the inference has been this morning, if the fine is too harsh, then the courts don't convict.

Now in your testimony you noted that Rhode Island law prior to 1974 provided for a mandatory 1-year license suspension for any person convicted of drunk driving. NHTSA has testified that mandatory license revocation is the most effective deterrent. In your opinion, why didn't this rather severe sanction work in Rhode Island?

Mr. **Bateman**. Eighty-five percent of those charged with driving while under the influence of liquor were first-time offenders, so the judges were reluctant to impose such a harsh sentence. Also 80 percent of the people charged with DWI required their automobile to earn their livelihood, so again the judges were reluctant to deprive that person of the right to drive. So they found ways to circumvent the harsh penalty of a 1-year mandatory license suspension. It was too severe.

Senator **Ford**. Now, Mr. Bateman, am I correct in saying that the bill that your association supported that was enacted a few weeks ago provides for a minimum amount of $500 or license suspension up to 1 year or imprisonment for 1 week or imprisonment for 1 week and mandatory attendance at DWI counterattack programs, and that on a second conviction within 3 years the minimum penalty is a mandatory fine of $500 and/or a mandatory suspension of not less than 6 months. And a third conviction goes to $1,000—are you getting back into the same position you were in Rhode Island before 1974; that is, that the penalty is so harsh that it will not be effective?

Mr. **Bateman**. I don't believe so. People will pay the fine to retain their right to drive.

Senator **Ford**. Well, if you allow them to drive by just paying some money, aren't you allowing the rich drunk to stay on the road and the poor drunk is going to jail?

Mr. **Bateman**. But you will notice on each of these occasions there is mandatory attendance at the DWI counterattack program.

Senator **Ford**. I have heard of people sending substitutes.

Mr. **Bateman**. They must or they go back to the court, and their license would be suspended.

Senator **Ford**. Do you have identification of that individual? I heard of sending somebody to go to school for them. You get fined, and I go to school for you, and you never show up.

Mr. **Bateman**. I never heard of that happening in Rhode Island. There is an excuse form for the person who can't attend, but he is identified.

Senator **Ford**. Your colleague Ed Walsh, talked about increasing the fee for the school to $75. Yet in your statement you say the program is self-supporting at $25.

Mr. **Bateman**. Yes, it was, and it should be and can be. I think there are ways of utilizing State buildings, State colleges, as we have done in Rhode Island, so the big overhead does not have to exist. The course in Rhode Island is much like a university extension evening course, paid for in the same manner.

Senator **Ford**. You are saying you don't think the additional fee is really necessary, if you use the facilities that are available to you.

Mr. **Bateman**. I think the program should be mandatory and people will find a way to go and attend the classes and pay what is necessary rather than lose their right to drive. As you know, we are a mobile society. One of the worst things that happens to an elderly person is when the doctor tells him he can't drive his car any longer. I think that same feeling exists in those of us who are not quite that elderly. If someone said to me, "You must lose your right to drive," I would be very much upset and would do just about anything within my means to retain my driving license.

Senator **Ford**. Including hiring a good lawyer.

Mr. **Bateman**. If that were necessary.

Senator **Ford**. That is the point that was made earlier. Those who could afford legal counsel were never convicted, and you said yourself about 700 cases on appeal were just set aside to clear the docket.

Mr. **Bateman**. Yes. That was probably true of any violation, whether it be motor vehicle or any other type of crime.

Senator **Ford**. Let's discuss the State preemption issue for just a moment. We get into this quite often here. You recognize in your testimony some might feel this is a problem for the States and not the Federal Government.

Why do you believe this problem would be better handled by a Federal standard, other than the States? Rhode Island has probably a harsher, stricter law than most of the States.

Mr. **Bateman**. I look at it, if a Rhode Island driver was driving through Kentucky and drank to excess and killed a resident of Kentucky, that he should suffer the same penalties there as he does in Rhode Island. It isn't where the crime or accident takes place, as much as the effect of the accident itself.

Senator **Ford**. What if the penalty in Kentucky before the law was much harsher than the Federal law? We should have the ability somewhere to let you have equal or better sanctions.

Mr. **Bateman**. That is a problem. I am not sure how it can be resolved. There are those States whose penalties are not severe enough.

Senator **Ford**. Let me ask you this: Under this legislation, if the States don't comply, they lose their 402 money. Do you think the States are going to be worried about this small amount of 402 money?

Mr. **Bateman**. I am not familiar with the 402 funding. I am not a State employee.

Senator **Ford**. It's a minimum amount of funding coming from the Federal Government. The Federal Government tells Rhode Island it has to do certain things. Do you think Rhode Island will tell the Federal Government: "You keep your paltry sum, and we will do it our own way"?

Mr. **Bateman**. I don't believe so.

Senator **Ford**. Rhode Island is a bit different from other States. Many States have even given up large sums of money—Indiana, for one, has given up large sums of money just not to be under the Federal Government's thumb. It's something that bothers me, if we are going to assist the States. I think that is a word we ought to use rather than mandate to the States. So we ought to be in a position to assist the States in their endeavor to eliminate deaths on the highway.

Senator Pell?

Senator **Pell**. I think it should be apparent there is nothing in this law that prevents the State having harsher laws, nor is there anything in the bill that would prevent a State from declining Federal funds. They have both those options.

I know the pressures of time, but I can't resist reading into the record a paragraph from the newspaper that says:

> The following was published in the Automobile Club Insurance Company of Columbus, Ohio publication. Drunk drivers. In South Africa a drunk driver is given a 10-year prison sentence or fine of $10,000 or both. In Australia the names of drunk drivers are sent to local papers and printed under the headline "Is Drunk

and in Jail." In Malaysia the driver is killed. If he is married, his wife goes to jail also.

Senator **Ford**. Some things are better there than here.

Senator **Pell**. "In Turkey drunk drivers are taken 20 miles from town by police and forced to walk back under escort. In San Salvador drunk drivers are executed with a firing squad."

Under these circumstances, America is pretty lenient.

Senator **Ford**. I don't think we are quite ready to shoot them. Thank you very much, Mr. Bateman. We appreciate you making the effort to be here today.

[The following information was subsequently received for the record:]

Questions of the Committee and the Answers Thereto

Question 1. You have testified that those who understand the law or are represented by counsel manage to avoid conviction for drunken driving—is there any way to change this?

Answer. It is my belief that responsible, mandatory minimum penalties together with a coordinated treatment approach is the only logical approach to meeting the complex problem the drunk driver places on our society and the court system. Rhode Island, to a great degree, has succeeded in minimizing the effect of legal counsel participation in changing the outcome of drunk driving arrests and convictions.

Under Rhode Island's former Driving While Intoxicated (DWI) law, conviction was not only treated as a misdemeanor motor vehicle violation subject to a maximum $500 fine, one year in jail or both, it also carried with it an administrative, mandatory one-year license suspension imposed by the Rhode Island Registry of Motor Vehicles. Failure to submit to testing (breath analysis) at that time only resulted in administrative suspension of the driver's license for six months.

Under the old law, the question of paying a fine was not a deterrent, but the administrative loss of license for one year was a very severe penalty. Therefore, those who knew the law or had counsel would either plea bargain or, if convicted, appeal. On the averge we were arresting approximately 600 to 700 persons a year for DWI, but convicting only about 110 to 125. The remaining cases were filed, plea bargained or appealed. Most cases on appeal were finally thrown out to clear court backlogs.

Under Rhode Island's new law (passed in 1974), the mandatory one-year license suspension was made discretionary and the courts could send DWI offenders to the DWI Counterattack School for education, counseling and evaluation. The court withheld sentencing until the school was completed and an evaluation was made in writing to the court. Since the sentence/penalty is not assessed until after the conviction and in most cases the license is not suspended on first offense, most lawyers have their clients plead guilty. Convictions therefore increased to where now we are convicting approximately 3,000 per year.

By providing a broad discretionary power to the courts with mandatory minimum penalties (fines), a judge can use options such as proposed in Senate Bill 2816, i.e., the alcohol treatment program, alternative community service and restricted license for first offenders and still maintain more severe penalties on second or third offenses. In this way the offender's alcohol problem can be attacked; the penalties are meaningful but reasonable, and the police and judges do not feel the motor vehicle offense may further compound the alcohol problem. Only a rational approach works effectively in DWI cases. The police, the legal profession and the courts must have confidence in the approach followed in DWI cases or the results are unequal and unfair application of the law. In Rhode Island, we feel we have minimized this problem area. Convictions are up significantly. We have a greater opportunity to use early detection to bring counseling and treatment, using the powers of the court, to persons abusing or depending on alcohol. While the use of the courts to attack a social problem is quite unique, it is working and acceptable by both the courts and the legal profession.

Question 2. The Auto Club's DWI Counterattack Program seems to concentrate on helping those convicted of drunken-driving through counseling—how does this compare with the emphasis in S. 2816 on legal solutions?

Answer. The DWI Counterattack Program in Rhode Island is but one of the more than 600 to 700 educaitonal/treatment schools in the country dealing with DWI offenders on court referral. These schools would find complete acceptance and application under Senate Bill No. 2816 in Section (2b), lines 8 and 9, which would require all states to provide for "participation in a safety or alcohol treatment program." The DWI schools provide an educational approach for the first offender simply classed as a social drinker, screeining and counseling for developing alcohol abuse, and the option for further treatment for serious alcohol dependence. Using the probation powers of the court and the persuasive qualities of the school, a judge can maintain counseling and/or treatment for a one-year period after conviction. By receiving a written evaluation from the school on each DWI offender, the judge is in a better position to decide which option, i.e., fines, license restriction or suspension, and jail or alternative service, is the most correct approach for the individual person. I would say that Senate 2816 is most compatible with the DWI Counterattack approach and would bring a uniform and rational solution to both the motor vehicle violation and the alcohol abuse problem created by drunk drivers in every state in our nation.

Question 3. How do you account for the rise in convictions once the program was started? (Rise from 110 to 3,000 convictions per year).

Answer. I have answered a portion of this question in my response to Question No. 1. It was perceived in Rhode Island that the administrative one-year loss of license for the DWI conviction in 1974 was too severe for a first offender. This perception was felt by the police, the courts, the legal profession and the persons arrested for a DWI violation. In many cases, polices officers would drive a person home or leave them in their locked car to "sleep it off," judges would not want to hurt the employment of a drunk driver by having the Registry administratively take the person's license for a year, and the person and his or her counsel would plea bargain so that the license was not suspended. There is a great feeling among persons working with DWI cases that the loss of license on first offense may actually do more harm than good. People with moderate to severe alcohol problems would simply drive anyway. The loss of license in many cases could also result in the loss of employment, divorce and even more severe dependence on alcohol. Neither the police nor the courts liked the state's DWI law, and, therefore, the arrest and conviction rate was quite low. Under the state's discretionary DWI law, passed in 1974, the police and the courts, although reluctant in the beginning, grew to accept and have confidence in this approach. Thus, convictions increased. With confidence in the law came a willingness on the part of most police departments to participate in alcohol enforcement programs sponsored by the National Highway Traffic Safety Administration (NHTSA). In prior years, most DWI arrests were made as a result of an automobile accident. Now police are actively looking for drunk drivers before accidents occurs. With proper enforcement, our conviction rate could even increase two or three times more.

Question 4. Do you think toughening the legal sanction for drunken driving really does impress drivers as to how serious the state views the offense?

Answer. No. Highway safety experts interested in the DWI problem are in agreement that severe legal sanction would only serve to lessen the arrest and conviction rate. While this position holds true for first offense, the position softens considerably on second and third offenses in a three-year period. Most DWI offenders are arrested on first violations. Second and third violators are usually persons with serious alcohol abuse problems and the penalties mean nothing to them. Studies show that about 10 percent of the adult population of our country suffers from an alcohol abuse problem. Most of these people have not yet admitted to themselves that they have such a problem. While surveys of populations show clearly that more than 90 percent of the people think there should be tough penalties for drunk driving, the same people believe that they would never be arrested for a DWI offense. They, therefore, think that such severe penalties would never apply to them. This is simply not true and as soon as our "outstanding" citizens is arrested, he thinks the penalties are too severe and should be changed. We have had every type of person, every level of profession from the lowest to doctors, college professors and lawyers, in our DWI school. We believe our state DWI law, with its penalties, options and discretion, represents a serious view on the DWI problem. This law provides help and hope for the first offender and serious penalties for the habitual offender. Studies have clearly demonstrated that high fines, long license suspensions and even jail will not help the alcohol abuser and will, in fact, only increase his alcohol problem. Such penalties are too severe for the first-time, social drinker. While I believe that Federal minimums such as proposed by Senator Pell in Senate 2816 are absolutely necessary, I would hope that all the states would look at the problem of the DWI offender as we have here in Rhode Island. I believe our approach is reasonably and acceptable to all segments of the populations. With such legislation, the alcohol abuse/DWI violation problem can be successfully attacked.

Senator **Ford**. Next witness is Don Jordan.

STATEMENT OF DONALD L. JORDAN, ASSISTANT VICE PRESIDENT, ALLIANCE OF AMERICAN INSURERS

Mr. Jordan. Thank you very much. I'll make my statement as brief as I can. I understand the committee will put the full statement in the record.

I'm Donald L. Jordan, assistant vice president of the Alliance of American Insurers, a major national trade association representing companies who write property and casualty insurance in all 50 States and the District of Columbia. The alliance is particularly gratified to appear today before the Senate Commerce Consumer subcommittee to testify on the concepts embodied in S. 2816, which would require the establishment of comprehensive alcohol traffic safety programs in each of our States to discourage driving while under the influence of alcohol. We commend Senator Claiborne Pell of Rhode Island for introducing this legislation and the subcommittee for focusing attention on this major unresolved national problem.

The Alliance of American Insurers is convinced that alcohol has become America's No. 1 drug problem. It adversely affects our health, our society, our productivity and dramatically increases the risks of fatal accidents and injuries on our highways, in our homes and at work.

In past years, general concerns have often focused on the debilitating effects of alcohol abuse and alcoholism on the health and safety of the individual affected. Today, such attention should also be focused on traffic safety, economic waste and lost productivity. We believe further that the American public must recognize that problems with alcohol are by no means limited to the confirmed alcoholic. Alcohol abuse affects us all.

Let's put the facts in perspective. Police experts report that two-thirds of those arrested for drunk driving these days are identified as problem drinkers. Yet, recent studies have demonstrated that throughout the country traffic officers on average make only about two arrests per year for driving while intoxicated. This demonstrates a serious lack in the enforcement of drunk driving ordinances.

The great prevalence of social drinking in the United States combined with such lax local enforcement of existing laws means that the odds are definitely stacked against us all, including the unfortunate sober motorist who travels our highways under conditions such as these. Is it any wonder that about 59 percent of all fatal automobile accidents involve drivers with a blood alcohol concentration—BAC—of 0.10 or higher—the threshold level in this legislation which signifies intoxication. Further, it has been estimated that using the standard 0.10 BAC, 1 out of every 50 cars coming at us on the road is "piloted" by a drunk driver. Mr. Chairman, it certainly is not an understatement to view this as a most sobering statistic.

We cite other statistics in our statement from the National Safety Council which indicates that alcohol abuse affects all our citizens and insurers as well. First, alcohol abuse creates economic losses which are spread through the insurance mechanism and translated into higher premiums for automobile and health insurance coverage, workers' compensation and other insurance protection. In fact, the National Institute on Alcohol Abuse and Alcoholism estimates that 15 percent of all claims made against property, casualty insurance companies result from alcoholism and alcohol abuse.

Second, insurers are affected because alcohol abuse adversely affects existing loss-control efforts and accident prevention programs of employers.

Finally, alcohol overuse among employees adversely impacts productivity and the ability to work with others toward common objectives.

We cite certain myths regarding alcohol abuse which we believe need to be overcome among common folk if we're going to have any impact on alcohol abuse and drunk driving. We mention a number of these. "I know when I had enough", "I don't drink alcohol, only wine and beer," and "It's the damned alcoholic who is the real problem." Changing these unfounded myths about alcohol is a tough nut to crack, yet it is not the confirmed problem drinker and alcoholic who alone is the menace on the road. Anyone whose driving abilities are impaired from alcohol constitutes an accident looking for a place to happen.

Highway safety experts are in almost total agreement that if the death rate on our highways is to be reduced, antidrunk driving legislation and the administration of existing regulations by State and local officials must be tightened and upgraded.

The Alliance of American Insurers for its part has taken a number of actions over the years in support of programs to improve highway safety and combat alcohol abuse. Of particular interest to the subcommittee is the ongoing support the alliance and other insurance interests have provided to the Insurance Institute for Highway Safety, an independent organization devoted to research in the field of highway loss reduction. The IIHS has been involved in a number of research programs concerning alcohol use and abuse. A number of these projects are cited in our statement.

The alliance also supports the National Committee on Uniform Traffic Laws and Ordinances—NCUTLO—which has been actively involved and concerned with problems of alcohol abuse on our Nation's highways.

We are convinced that programs like the ones contemplated under S. 2816 must be organized, implemented, and supported at the local level if they are to have a lasting impact and affect. The uniform code promulgated by NCUTLO is an excellent model, well positioned to assist in developing effective local delivery systems.

In conclusion the alliance supports the general concepts embodied into S. 2816. We believe that alcohol abuse and alcoholism are problems of major national concern that warrant congressional attention. We recognize, however, that the ultimate viability of State action legislation and regulation will rest with the commitment of local traffic safety officials to implement and enforce comprehensive and workable traffic safety programs and of local prosecutors to follow through on the intent of the law. We believe that the uniform code should serve as a model for State action.

Finally, local and State programs will not be truly effective unless the average citizen who drinks while he drives is convinced of the risks and consequences of his actions and that it is in his or her own best interest to sober up.

Thank you, Senator.

Senator Ford. Thank you very much.

Thank you. You did an excellent job in summarizing your statement. I have a couple of questions.

You testified that the ultimate viability of any legislation would depend on the local commitment to that. Do you foresee any problems in this area as it relates to this piece of legislation?

Mr. Jordan. I guess I would have to say yes in that regard. I can see local people saying, here comes Washington down here again trying to give us some religion.

Senator Ford. We've been known to be called born again.

Mr. Jordan. I can see local officials saying we want this discretion. We think it's necessary.

The alliance thinks some discretion is necessary on the part of local judges. As one of the other witnesses this morning testified, judges don't like to be told they have to give a mandatory sentence. They like to have discretion in dealing with, on the one hand, someone who may be a part-time social drinker, and on the other hand, a confirmed alcholic.

Senator Ford. Mr. Jordan, what do you think made the British Road Safety Act so effective?

Mr. Jordan. That's a good question. I would like to come back on that.

We knew it had been effective initially when it came out, and the reason I believe this is the British public was basically stunned, because the law was so all encompassing. It really grabbed their attention. We have heard more recently that that act might not be working nearly as well as when it originally came out in 1967, so I would like to do more research on that and get more information for the subcommittee.

Senator Ford. Fine. If you do that, it would be very helpful to us to have that analysis.

Based on your experience with the National Committee on Uniform Traffic Laws and Ordinances, and the uniform vehicle code, what in your opinion is the most effective approach to the problem?

Mr. Jordan. You need a model like the uniform vehicle code. All of the States have adopted some parts of the uniform vehicle code. However one aspect of that model code that has not been adopted in many of the States deals with what I understand is called the per se violation. In most States today you have to literally prove someone is driving while intoxicated. However in 11 States all you have to do is prove they have a blood-alcohol concentration of 0.10 or higher. It's easier for the judges and juries to deal with the second situation than the first. A lot of times I understand you have a driver out there with a blood-alcohol concentration maybe 1 to 1.5 and he can finesse the situation. He doesn't even get arrested for drunk driving. If it's 2 or higher, he is overboard and you can't hide that. It's the marginal situations where the person is still driving under impaired conditions and it's not that noticable once the policeman starts talking to him, unless he has specific training in the area.

We also believe this detection needs to be beefed up at the local level. Hence, the per se violation. And the ability of police officers to handle these marginal alcohol abuse situations are important in improving highway safety.

Senator **Ford**. Are you of the opinion that treatment and alternative approaches are very important in this area?

Mr. **Jordan**. I believe you have to have a multiple approach here. You cannot treat everybody the same way. You have the problem drinker on the one hand, the confirmed alcoholic, I don't think he will respond to an enforcement program. He has a disease. You have to rehabilitate him and deal with him differently then the social drinker, who is more aware of the penalties and impact on his life and driving capability.

Senator **Ford**. Thank you. We look forward to your statement on the British Road Safety Act. Senator Pell.

Senator **Pell**. Thank you. Am I correct in saying your group supports the bill?

Mr. **Jordan**. We support the concepts embodied in the bill. We would like to see more discretion at the local level and we would like to see NCUTLO used as a basis here. We completely empathize with the objectives you have set forth in putting this legislation forward.

Senator **Pell**. Don't you think the judges have enough discretion under this approach, because if he wants a very mild sentence he can say, well, spend the next five weekends at the local driving center or court or hospital, and that is pretty mild.

Mr. **Jordan**. There is no question there is some discretion. There is an alternative. A community service alternative. I'm not sure the community service alternative is going to work in all respects, particularly as it relates to the problem alcoholic. However, I don't think the problem is only one of limited discretion at the local level. It's also a lack of followthrough with existing laws that are in the books.

Senator **Pell**. That might be handled by the approach we have in drivers' education.

Thank you very much indeed.

[The statement follows:]

STATEMENT OF DONALD L. JORDAN, ASSISTANT VICE PRESIDENT, ALLIANCE OF AMERICAN INSURERS

I am Donald L. Jordan, Assistant Vice President of the Alliance of American Insurers, a major national trade association representing companies who write property and casualty insurance in all 50 states and the District of Columbia. The Alliance is particularly gratified to appear today before the Senate Commerce Consumer Subcommittee to testify on the concepts embodied in S. 2816 which would require the establishment of comprehensive alcohol traffic safety programs in each of our states to discourage driving while under the influence of alcohol. We commend Senator Claiborne Pell of Rhode Island for introducing this legislation and the Subcommittee for focusing attention on this major unresolved national problem.

SCOPE OF THE PROBLEM

The Alliance of American Insurers is convinced that alcohol has become America's number one drug problem. It adversely affects our health, our society, our productivity and dramatically increases the risks of fatal accidents and injuries on our highways, in our homes and at work.

In past years, general concerns have often focused on the debilitating effects of alcohol abuse and alcoholism on the health and safety of the individual affected. Today, such attention should also be focused on traffic safety, economic waste and lost productivity. We believe further that the American public must recognize that problems with alcohol are by no means limited to the confirmed alcoholic. Alcohol abuse affects us all.

Let's put the facts in perspective. Police experts report that two-thirds of those arrested for drunk driving these days are identified as problem drinkers. Yet, recent studies have demonstrated that thoughout the country traffic officers on average make only about two arrests per year for driving while intoxicated. This demonstrates a serious lack in the enforcement of drunk driving ordinances. The great prevalance of social drinking in the United States combined with such lax local enforcement of existing laws means that the odds are definitely stacked against us all including the unfortunate sober motorist who travels our highways under conditions such as these. Under these conditions, is it any wonder that about 59 percent of all fatal automobile accidents involve drivers with a blood alcohol concentration (BAC) of .10 or higher—the threshold level in this legislation which signifies intoxication.[1] Further, it has been estimated that using the standard .10 BAC, one out of every 50 cars coming at us on the road is "piloted" by a drunk driver. This, I submit, Mr. Chairman, is a very sobering statistic.

It is a recognized fact that a definite correlation exists between the amount and concentration of liquor in the bloodstream and traffic accidents. For instance, studies at Indiana University demonstrated that a driver with a BAC level of .15 is 25 times more likely to cause a traffic accident than a non-drinker. At .10 BAC the risk of an accident is still six times greater, while increased accident causation was noticed even at .04 percent.

ALCOHOL ABUSE IN A LARGER CONTEXT

This past month, the Alliance re-emphasized to its member companies the problems of alcohol abuse and its impact on the insurance industry. We cited statistics from the National Safety Council and elsewhere on the unbelievable impact that alcohol abuse is having today on our nation's economic fiber and productivity. NSC estimates that in 1978, accident costs from alcohol abuse alone totaled $68.7 billion, of this figure: $34.3 billion was attributable to motor vehicle accidents; $23.0 billion to work-related accidents; $7.1 billion to home accidents; and $5.6 billion to public accidents.

These staggering economic losses affect all citizens and they affect insurers as well. First, alcohol abuse creates economic losses which are spread through the insurance mechanism and translated into higher premiums for automobile and health insurance coverage, workers' compensation and other insurance protection. In fact, the National Institute on Alcohol Abuse and Alcoholism estimates that 15 percent of all claims made against insurance companies results from alcoholism and alcohol abuse. Secondly, insurers are affected because alcohol abuse adversely affects existing loss control efforts and accident prevention programs. Finally, alcohol overuse among employees adversely impacts productivity and the ability to work with others toward common objectives.

OVERCOMING THE MYTH THAT: "ALCOHOL ONLY AFFECTS THE OTHER GUY"

In order to be truly effective, programs aimed at detering alcohol abuse must overcome a host of unfounded beliefs and myths about alcoholism and alcohol use and highway safety. We recognize the difficulties in changing peoples perceptions and behavior, yet we believe the stakes are sufficiently high to warrant the attempt, particularly when one contemplates the annual carnage on our nation's highways.

Strong local enforcement programs and stiff penalties alone are not enough. They must be coupled with education and a new awareness on the part of the driving public. Many myths concerning alcohol consumption and accident causality must therefore be opened to critical scrutiny such as:

"It'll never happen to me."

"I can handle my liquor."

"I know when I've had enough."

"I don't drink alcohol—only wine and beer."

"It's that damned alcoholic who's the real menace on the highways, not friendly social drinkers like me and my friends."

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[1] Report by HEW Secretary to Congress 1978. This report also noted that alcohol abuse was involved directly in: 40 percent of all fatal industrial accidents; 69 percent of all drownings; 83 percent of all fire fatalities; 70 percent of all falls; and alcohol is quite prevalent in violent crimes including arson, robbery, rape, assault, homicide and suicide. Further, problem drinkers have absentee rates 2½ times the average of all employees, accident rates 3.6 times the national average and they receive three times the level of sick benefits as do employees in general.

"Drinking relaxes me, my driving capabilities actually improve after a few drinks."

Changing these unfounded myths about alcohol is a tough nut to crack, yet, as noted above, it is not the confirmed problem drinker and alcoholic who alone is the menace on the road. Anyone whose driving abilities are impaired from alcohol constitutes an accident looking for a place to happen.

HOW ALCOHOL ABUSE MANIFESTS ITSELF

HEW conducted a study in 1972 on "The Effects on Moderate Blood Alcohol Levels on Driver Alertness." During this research, it was found that at .06 BAC subjects tested had problems with steering, reaction time, and staying awake at the wheel while demonstrating general inattentiveness to the test. We find that in states like New York a .10 BAC or higher means that a driver is legally drunk, while a level of .05 to .09 signifies impairment of driving ability.

Let us consider for a moment how alcohol impairs driving ability. It affects alertness, concentration, the ability to stay awake, hand/eye coordination and agility, vision, sense of perspective and distance, reaction time, perception of time, space and location, even reasoning and memory. The higher the BAC level, the more each of these factors so essential for safe driving is impaired or compromised. Such phenomena cannot be overlooked when a drinking driver says he didn't see the signal, the car or the child. He may be reporting the facts correctly. This, however, is of little solace to those injured or killed.

When we think about automobile accidents, one finds that many casual factors often interrelate. Such factors include a moment of inattentiveness, unexpected actions by others drivers, a turn in the road, a momentary loss of visibility, fumbling for cigarettes, a pot hole, a mechanical malfunction and on and on. Beyond these—other conditions are particularly conducive to accident causality including nighttime driving where fatality rates are three times greater than during the day. For that matter, improper driving, (including speeding, reckless driving, and in the wrong lane, etc.) is cited in police reports in three out of every four auto fatalities. Hence, there already exists a long litany of causal related factors in automobile safety hazards which lead to many thousands of automobile injuries and fatalities in their own right. When one adds to these the loss of mental and physical abilities from an overindulgence of alcohol, the combination is truly explosive.

THE NEED FOR MORE EFFECTIVE LAW ENFORCEMENT

Highway safety experts are in almost total agreement that if the death rate on our highways is to be reduced, anti-drunk driving legislation and the administration of existing regulations by state and local officials must be tightened and upgraded. In Europe, many nations have concluded that a given percentage of alcohol in the blood is in and of itself a violation no matter how correct ones' driving habits. Poland, Norway and Sweden for instance set the level at .05 percent—Switzerland, Australia, Great Britain and Canada at .08 percent as a threshold level for intoxication.

In determining what affect Senate bill S. 2816 might have on driving habits and highway safety in the United States, let us look for a moment at the experience in Great Britain after that country passed its landmark Road Safety Act in 1967—considered by some as perhaps the most important single piece of highway legislation in the world. Beyond defining a BAC level of .08 as a level of intoxication, the act established a range of fines, imprisonment and possible license revocation for offenders. In addition, the act authorizes pre-arrest chemical testing.

There is, as might have been expected, an initial hue and cry both by civil libertarians and liquor interests about passage of the bill. Yet, the public stood behind the Road Act, casualties dropped sharply and subsequent evidence suggests that the tendency to drink and drive in Britan has been reduced.

ALLIANCE SUPPORT FOR PROGRAMS TO IMPROVE TRAFFIC SAFETY HAS TAKEN MANY FORMS

The Alliance of American Insurers has taken a number of actions over the years in support of programs to improve highway safety and combat alcohol abuse. Of particular interest to the Subcommittee is the ongoing support the Alliance, and other insurance interests provide to the Insurance Institute for Highway Safety, an independent organization devoted to research in the field of highway loss reduction. The IIHS has been involved in a number of research programs concerning alcohol use and abuse. Among these are the following:

Research project to determine the reliability of devices and procedures used by law enforcement agencies to measure an individual's use of alcohol or drugs—how well do these devices work, how can they be improved?

Research to determine how often alcohol is involved in fatal vehicle crashes.

Ongoing studies on the extent that alcohol and other drugs taken either separately or in combination affect an individual's ability to drive.

The review of what affect lower drinking ages have had in specific states on accident frequency.

Studies on the extent that automatic imprisonment and loss of drivers licenses may have impacted safe driving practices in Sweden and Finland.

A review of the NHTSA Alcohol Safety Action Program.

An assessment of Chicago traffic court policy of mandatory seven-day jail sentences for drunk drivers.

The Alliance also supports the National Committee on Uniform Traffic Laws and Ordinances (NCUTLO) which has been actively involved and concerned with problems of alcohol abuse on our nation's highways. The National Committee is the custodian of the Uniform Vehicle Code, a model act extensively used by the states to develop legislation applicable to the rules of the road. The Committee is composed of government—both state and federal—officials and public representatives, including traffic engineers, highway safety officials, insurance experts and many others.

Since NCUTLO will submit a statement for the record, we will not endeavor to review the Uniform Code's treatment of the issue of driving under the influence of intoxicating liquor. We do want to emphasize that legislation incorporated into the Code is based on what has been proven, through actual experience, to be the most effective and efficient alternative approach used, at one time or another by the states.

We are convinced that programs like the ones contemplated under S. 2816 must be organized, implemented and supported at the local level if they are to have a lasting impact and affect. The Uniform Code is an excellent model well positioned to assist in developing effective local delivery systems.

IN CONCLUSION

The alliance supports the general concepts embodied into S. 2816. We believe that alcohol abuse and alcoholism are problems of major national concern that warrant congressional attention. We recognize, however, that the ultimate viability of state action legislation and regulation will rest with the commitment of local traffic safety officials to implement and enforce comprehensive and workable traffic safety programs and of local prosecutors to follow through on the intent of the law. We believe that the Uniform Code should serve as a model for state action. Finally, local and state programs will not be truly effective unless the average citizen who drinks while he drives is convinced of the risks and consequences of his actions and that it is in his or her own best interest to sober up.

[The following information was subsequently received for the record:]

ALLIANCE OF AMERICAN INSURERS,
Washington, D.C., August 8, 1980.

Hon. WENDELL H. FORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FORD: The Alliance of American Insurers was pleased to provide testimony at the recent hearing held by the Consumer Subcommittee on Senate bill 2816 which would require states to establish alcohol traffic safety programs. Subsequently, we received four additional questions from your Subcommittee to supplement the hearing record.

Prior to answering the four specific questions, we must first address several underlying premises which run through your inquires to place our own answers in proper context.

First, there is the underlying presumption that the automobile insurance industry should in some fashion function as a "quasi-policeman" for alcohol traffic abuses through the perogatives available to insurers through their underwriting practices (i.e. cancellation or nonrenewal of automobile coverage).

Secondly, there is the assumption that if a driver with a valid license is convicted of alcohol abuse while driving and cancelled in the voluntary insurance market that he will not be able to obtain coverage elsewhere.

We believe it important that the Subcommittee recognize that automobile insurance today has not only become a necessity but that each state in its own right has taken steps to assure that automobile insurance is available to every licensed driver. Specifically, each and every driver in every state can obtain coverage in one or another insurance market as long as the driving license is valid and premiums are paid. They can obtain automobile insurance either through voluntary market, specialty markets or state assigned risk plans. Although it is possible in certain situations for insurers to cancel or nonrenew coverage i.e. for nonpayment of premium or when driving violations occur such as excessive speeding or drunk driving, the motorist can always obtain similar coverage elsewhere.

The Subcommittee should also be aware that the costs of automobile liability insurance is not significantly higher under state assigned risk coverage than when compared to protection provided in the standard voluntary market. For instance, those rate differentials which would occur when points are charged to a motorist apply equally to both assigned risks and voluntary markets. We are advised that a driver with a convention for drunk driving on his motor vehicle record would find that insurance costs in the voluntary and assigned risk markets are roughly comparable.

The Subcommittee should also be aware that at present automobile insurance underwriters have few prerogatives available in terms of accepting or denying coverage to risks under state assigned risk programs. Further, it should be pointed out that states individually have passed their own laws dealing with cancellation and nonrenewal protection either separately or as part of unfair trade practice legislation which restricts an insurers ability to cancel or nonrenew coverage.

Another premise that runs through the Subcommittee's questions is that greater criminal penalties for alcohol abuse automatically lead to improved enforcement. We believe that the contrary condition prevails. That is that greater mandatory penalties can often lead to less effective law enforcement in that local judges and prosecutors are loathe to impose harsh penalties for behavior which society often condones at least in part as socially acceptable. The crux of the problem then is not so much the level of penalties but the degree and consistency of enforcement.

We should now like to respond to the specific questions posed in your transmittal letter with these foregoing comments in mind:

Question 1. Often cancellation of (automobile) insurance is viewed as serious a punishment as a fine or temporary imprisonment. Will this legislation through the creation of better recordkeeping requirements allow insurance companies to cancel insurance more easily?

Answer. Building on our prior comments, we believe that the loss of insurance in the voluntary market should not be viewed as a punishment per se because insurance coverage can be obtained through the assigned risk program in every state as long as the driving holds a valid license. Certainly some problems are created through temporary cancellation or possible modest increases in premiums due to such a conviction. But these should not be viewed in the same vain as arrest, conviction, fines or temporary imprisonment.

The second part of the question assumes that better state recordkeeping requirements for convictions would allow insurance companies to cancel coverage more easily. While insurers do obtain information from state motor vehicle records which can be of assistance in determining driver experience regarding citations, speeding, drunk driving, etc., insurers are today facing decreasing access to MVRs because of privacy considerations. This occurs today at the time when some critics would like to see automobile insurers utilize individual driving experience as a surrogate to establish rate differentials and/or identify good versus bad drivers. To the extent that S.2816 provides better recordkeeping at the state level it would not necessarily benefit insurers if they are unable to access these records, while convicted motorists can still obtain insurance through assigned risk if they continue to hold valid licenses.

Question 2. If the drinking driver is rehabilitated, should there be a mechanism for his restoration to insurance?

Answer. A mechanism already exists today for the restoration of insurance which is the assigned risk program whereby the motorist can obtain necessary liability and often physical damage protection as well. Besides assigned risk, many specialty insurance companies have been established to provide coverage that competes with or builds upon basic protection provided through assigned risk programs hence, there is no need for a separate insurance mechanism for restoration and protection as one already exists.

Question 3. The prospect of increased insurance rates or revocation of insurance upon receipt of information that an insured has been convicted of drunken driving deters courts in convicting persons of this offense. How can this be changed?

Answer. It is our belief that to the extent courts may be deterred from convicting persons for drunk driving the rationale for this action rests more on the problems created through license revocation than they do because of any problems related to insurance cancellation. Again, as we pointed out, cancellation does not preclude motorists from obtaining coverage from assigned risk or specialty markets.

In our judgment, what occurs is that courts and prosecutors are swayed by arguments (a) that individuals must maintain their licenses and cars for transportation and (b) that the offense is not so socially unacceptable as to be deemed criminal behavior. Under these conditions, certainly shifts of insurance between the voluntary and residual assigned risk market should play a decided secondary role in deterring convictions.

Question 4. Mr. Jordan, what do you think made the British Road Safety Act so effective?

Answer. We provided certain information on the British Road Safety Act in our testimony of July 1st. We should now like to provide the Subcommittee with the report on this Act prepared by Professor H. Laurence Ross of the University of Denver, entitled Law, Science and Accidents (Journal of Legal Studies—Library of Congress). Professor Ross makes the following observations on this important legislation.

He reviews the claims made concerning the dramatic decreases that did occur in the casualty rates in Britain as a result of the British Safety Act and analyzes a variety of data obtained in Great Britain to assess the validity and the impact of that legislation. Professor Ross believes there may be some parallel between the U.S. and Britain due to closer cultural ties and narrower legal structures between the two countries such that the application of the act in Britain could have certain implications for the American highway traffic safety scene.

Professor Ross concludes that a study of the Road Safety Act of 67 provides support for his hypothesis that subjective certainty of punishment can deter socially harmful behavior. However, he continues that "basic difficulties of detection along with organizational problems in the legal system undermined the objective probability of punishment. . . (the loss of) individual learning eventually reduced the current effect of the legislation." He concludes that in order to revive the deterent effect of the act, organizational problems must be overcome rather than changing more formal highway safety rules.

Other observations of interest made by Professor Ross include the following. "Most standard safety measures such as driver education, motor vehicle inspection, license examinations and traffic courts among them are not based on systematic evidence of their authoritativeness in preventing accidents." Rather, that accidents are the result of a large variety of causes that inter-react in sometime systematic, sometime random fashion such that it is quite difficult to isolate individual variables. In this context, the Road Safety Act of 67 was unusual because it relied on scientific evidence of a cause and effect relationship between drinking, driving and accidents.

The report concludes that the Road Safety Act was a spectacularly effective law—at least at its outset and that its effect on casualties was sharp and immediate, particularly so, considering the multiplicity of factors that cause accidents. Further, its administration did not require a significant increase in resources for police or courts and its cost was certainly small in relation to the benefits documented in this report.

Many signs indicate however, that the initial effects of the legislation diminished over time and that there were problems in attempting to speculate what might have occurred in the absence of such legislation. Professor Ross believes that the initial effect of the Act on casualty rates was due principally to the general impression left on the driving public that serious penalties would be visited upon them and that the likelihood of enforcement was tied to a relatively high degree of certainty. The credibility of this threat was fostered by the provisions which enabled enforcement officers to randomly stop motorists and by the scientific nature of the test which they anticipated would be demanded. However, the public soon realized that there was an inherent detection problem in identifying drinking drivers while at the wheel. Professor Ross believes that improved safety experience would develop if punishment were increased with additional police resources devoted to enforcement either through general testing of drivers stopped for violations or accidents and through training and special enforcement squads.

IN CONCLUSION

We hope that our response to your questions have been both constructive and comprehensive. We believe there are certain lessons that can be learned from prior programs that have application in reducing the incidence of alcohol abuse while driving. It is important to recognize however, that insurance underwriters and the insurance industry in general are not and should not be placed in the position of policemen charged with the responsibility of punishing those who drink and drive at the same time.

Finally, we hope the Subcommittee will keep in mind that insurance in today's world is made available to all motorists in every state as long as they hold a valid driver's license either through the voluntary, specialty or assigned risk markets.

Sincerely,

Donald L. Jordan,
Assistant Vice President.

Senator **Ford**. The final witness is Dr. Gary Graham.

STATEMENT OF DR. GARY D. GRAHAM, DIRECTOR, HEALTH SERVICES, KEMPER GROUP

Dr. **Graham**. Thank you. Good morning.

My name is Dr. Gary D. Graham. I am the corporate medical director of the Kemper Group, which used to be called Kemper Insurance Cos.

I have had professional experience in alcoholism treatment programs at both the Navy and private practice levels.

I won't read any of my statement or highlight it, but I will say to you only that we support the bill S. 2816, particularly some parts of it, the uniform standards in terms of blood alcohol content, and the mandatory alcohol safety action program concept.

And I would be glad at this time to answer any questions you might have.

Senator **Ford**. Thank you very much.

Am I correct in stating that as a medical director for the Kemper Group, you have been both in the private and public employment arena. You have been working for the corporation and you also have your own private practice?

Do you still maintain that?

Dr. **Graham**. I still am. I am a cardiologist by training and continue to do some cardiology as well as work in an alcoholism program.

Obviously, Kemper Group supports this bill because it's a company whose costs and claims are alcohol related. You may be aware the company has long been involved with alcoholism and alcohol misuse in terms of public education and specific programs as well as lobbying when there are bills and laws that deal with alcohol misuse and alcoholism.

As a medical director of the corporation, I am involved with health insurance, life insurance, as well as some property and casualty claims.

The 25,000 estimated deaths from alcohol, as has been stated over and over again, something that may not impact is the tremendous number of injuries and the high monetary costs of those.

I saw a file the other day on a 20-year-old who was in an alcohol-related motor vehicle accident. I was asked to make an estimated life mortality on this 20-year-old.

It's a guesstimate. It probably was in the neighborhood of 18 to 20 years and the reserves in that kind of situation are millions of dollars on one individual and that impacts over and over again, not only on our company, but other companies. The bottom line cost is ultimately to the consumer.

Senator **Ford**. What kind of medical problem did he have?

Dr. **Graham**. He was in a coma.

Senator **Ford**. The Indiana Research Institute on Public Safety did a study on highway safety for NHTSA in 1978. Are you familiar with that study?

Dr. **Graham**. I am.

Senator **Ford**. In the report, the institute said that additional punitive sanctions work only with some drunken drivers and very little is known about which sanctions should be used with which offenders.

Do you think the programs in this particular piece of legislation will help with problem drinkers?

Dr. **Graham**. I think it will. The alcohol safety action program provision, if properly utilized, can go a long way in helping with the problem drinker.

As I see alcohol use, it's our favorite recreational drug. It took me a long time to call alcohol a recreational drug. Most of us aren't really comfortable thinking of it as a drug.

We talk about alcohol and drugs. Alcohol is a drug. It's our favorite recreational drug. It's the drug we most misuse in this country.

As previously stated, people who misuse the drug and drive will be arrested occasionally and sent to an alcohol safety program in States that have them established.

Some of those offenders have just misused the drug and have no underlying psychological or physical dependence.

Another portion of those will have physical or psychological dependence, that is alcoholism in early, middle, or late stages of alcoholism.

A good program can help identify those people and, in fact, there have been situations where that has been used in a presentencing way, that people will attend that program even before their case comes to court and there will be some counsel or evaluation of that individual which is made available to the judge in terms of his decision about that person.

I don't know if that answers your question, but I think a program—that provision in this bill could help identify the problem.

Senator **Ford**. I think we are finding more and more that alcoholism is placed in the category of a disease. It is difficult to remove an employee because of alcoholism. That is considered a disease and must be treated.

I am not sure whether that comes under workmen's comp or not. You are the insurance specialist here this morning.

Where are we in that field as it relates to the insurance business?

Dr. **Graham**. I was in Dallas last Friday—pardon me, Austin. I passed through Dallas, all too briefly—to work with the National Association of Insurance Carriers Task Force looking at alcoholism and third-party payment.

Alcoholism may not be a disease if you define a disease as that which is paid for by all health insurers. There are some health insurers that will not cover for treatment of alcoholism.

But there is Federal legislation that has established that alcoholism is illness which can be treated. As I am sure you are well aware, the thrust of the alcoholism treatment programs in the

Armed Forces came by way of amendments to appropriation bills by Senator Hughes of Iowa and eventually the Armed Forces were tasked to treat alcoholism.

This was after the American Medical Association and various other people identified alcoholism as an illness.

Presently, most health insurers will pay for alcoholism treatment.

Senator **Ford**. Should we refer to this as an illness rather than a disease?

Dr. **Graham**. It doesn't make any difference. That is semantics.

Senator **Ford**. Which language is preferable?

Dr. **Graham**. Either. In my vocabulary, I have a very small—crusade, whoever typed this up for me either changed my words—or they weren't sure I was literate.

I tend to use alcohol misuse rather than abuse. That will never change the world. It's NIAAA and so forth.

It's hard to abuse alcohol. You can burn it or throw it. But it's inanimate and can't be abused. We can misuse it and abuse ourselves or other people.

Particularly in an automobile. In terms of illness or disease, I am very comfortable with the medical model of alcoholism. I don't know what the cause is, but I don't know the cause of coronary atherosclerosis and I treat that.

I know how to diagnose those and I know how to treat them. We haven't identified a virus or germ that causes the illness and I don't think we shall for a while.

Senator **Ford**. The model penal code specifically lists chronic alcoholics as proper candidates for nonprosecution and recommend a commitment to health authorities.

Doesn't a mandatory sentence require a conflict with this policy?

Dr. **Graham**. I am not sure. That model penal code, as you know, has not been adopted by all States.

I have been in Texas again this year where they are considering decriminalizing chronic public intoxication which is a symptom of what I feel is an illness of alcoholism.

I think the issue of the privilege rather than the right to operate a motor vehicle is addressed by this bill.

As regards the mandatory jail sentence, there is an option of community service and I would think under that "and/or appropriate treatment," if that be the case, I don't think that is a major conflict.

Senator **Ford**. The model penal code provides for the disposition of driving while intoxicated cases without imprisonment except in extreme cases.

Are you in a position to say how you feel about that particular section of the model code?

Dr. **Graham**. I am in a position to give you my feelings on what kind of law I would write.

Senator **Ford**. That is fine. You have some expertise here this morning we haven't had.

Dr. **Graham**. One of the things that concerns me is the whole issue of under-the-influence and impairment. In fact, one of the things that concerns me about this bill is that I think we haven't properly addressed—it's not properly addressed to the law enforcement official.

If there is a very stiff penalty, there will be more discretion by the arresting officer. If it were a mandatory 5-year prison sentence, first offense, I could guarantee you that very few doctors would have driving-while-intoxicated charges.

That is difficult for this bill. What I would like to see is some leeway in terms of driving under the influence, nonimpaired, that being one area.

Driving under—the influence, nonimpaired, this is a person who is stopped and found to have—he has a broken right taillight. The policeman stops him to give him a courtesy ticket about the taillight. The man rolls down the window and out rolls fumes. The officer has a breathalizer and he is found to be legally intoxicated under State law, but not impaired. He has tolerance.

The officer might then be able to take him home and give him a citation for driving under the influence, not impaired, and that would have a different set of penalties.

It would still involve the alcohol safety action program, but have a different penalty than driving under the influence, impaired.

Another thing some States have done is that they have given the officer discretion to say a person is driving impaired, period, and need not be under the influence.

For example, I could take four 5-milligram Valiums and have a beer or no beer and be very impaired in the operation of a motor vehicle.

I would trust that—in the best of all worlds, a police official could arrest me for being impaired, no matter what the cause. He could stop my driving that day.

If I had hypoglycemia because I were a diabetic, he could stop me for being impaired and the appropriate treatment in that case would be to get me to a hospital.

I would like to see that addressed in legislation.

Senator **Ford**. We are getting into a complicated arena and it would be very difficult, I think, for our police officers to make a judgment.

What you are saying is that if we could draw arenas in which he could have confidence in what he is doing, you would see more action and more help.

For example, the diabetic really isn't under the influence of alcohol. He is impaired. He is an impaired driver.

Senator Pell.

Senator **Pell**. Thank you.

Some people seem to be able to drink a good deal and have no impact—have a "hollow leg," as they say. Others can be set off by one drink.

What is the reason for the difference?

Dr. **Graham**. That is called tolerance. That is a property of the brain with any sedative drug when used chronically over a period of time, it takes more of the drug to produce the same effect. That is, the brain becomes tolerant to the drug.

May I ask, have you ever had a sleeping pill?

Senator **Pell**. Yes.

Dr. **Graham.** Did it put you to sleep or perhaps help put you to sleep?

Senator **Pell.** I imagine it put me to sleep.

Dr. **Graham.** If you had more than one at a time, if I gave you three—you don't use sleeping pills routinely? If I were to give you three now, no matter how stimulating this afternoon session was, you will probably go to sleep.

Yet I have treated people with such tolerance for sleeping pills that they were taking 60 to 70 sleeping pills daily. Or Valium, for example, 200 5-milligram tablets in a 24-hour period. Both those people would have lethal levels if you looked at blood levels.

More of us now understand that in terms of alcohol. You can see the chart the National Safety Council puts out. At this level, you are mildly intoxicated. At this level, stuperous. At this level, coma. This level, you die.

Yet as we began measuring more and more by the breathalizer, which is an estimate of blood levels, we found people who are tolerant. The person has been in the emergency room and walks into the emergency room with a cut finger and his blood level is 350 milligrams percent.

If you look that up in your little black book, that level is coma. Obviously, that person is not in a coma having just walked into our emergency room. That is the phenomenon of tolerance.

That is not addressed in this except that the person with alcoholism who is tolerant, who has high tolerance and is physically addicted to the drug, doesn't get in trouble at 0.10. That individual gets in trouble at 0.3, or 0.35. The 100 milligrams percent level is now the law in 48 States—this isn't really very gutsy; 0.08 or 0.05 would certainly be much more meaningful. Most people who are not tolerant are impaired at 0.08.

Senator **Pell.** Isn't it correct that many alcoholics function in society for a long time and nobody is aware of their condition?

Dr. **Graham.** Yes.

Senator **Pell.** Then wouldn't it be true that if this is a fact and if such an alcoholic were faced with deprivation of liberty for 10 days, he would be more constrained to himself identify his problem and seek a cure?

Dr. **Graham.** I would like to think that, but I don't think so. The person who is physically addicted, his alcoholism is fairly obvious. The exciting thing in the 1970's, to my perspective, is we identify alcoholism much earlier. Once alcohol negatively affects any area of the person's life and they continue to use it, further complicating that or other areas, that is alcoholism.

The man with a DWI, whoever's law or bill, is convicted of driving while intoxicated. That is not diagnostic of alcoholism.

The man who had a driving-while-intoxicated and has another DWI during his license suspension is really screwing up his life. That is alcoholism. A person without alcoholism doesn't get another DWI while having a suspended license. The person that happens to is a person with alcoholism and that should be recognized in a safety action program, whatever it's called, and that person should be treated.

Senator **Pell.** Thank you very much.

Dr. Graham. One addition. In the State of California, I understand from Dr. Pursch that currently when a physician has a second DWI in California, he is visited by two or three of the impaired physicians panel. They are tracking, with cooperation of the authorities, those physicians with driving-while-intoxicated patterns. They feel doctors should know better.

We know about babies and drugs. Neither of those should happen accidentally.

Senator Ford. I think we are about to close this hearing on a lively note. I have two questions; one serious, the other not quite so serious.

Serious: Do we have the ability now to test newborns as to susceptibility to alcohol or anything else? There are a lot of tests going on in a lot of medical centers. They are attempting to do this. Is there any validity to that?

Dr. Graham. No. We do see the fetal alcohol syndrome. That is, infants who are impaired from maternal use of alcohol. But we have not reached the point of sophistication that we have found a marker for the tendency for alcoholism such as, perhaps, we have found with coronary disease and lipid markers.

We could look at specific patterns of cholesterol and lipids. One type is ominous. If you have that type you have chosen bad parents. It's early atherosclerosis and so on. We haven't found that in alcoholism.

I think when we do, I am not sure if that will help us other than hopefully educating that person to not use because they are at very high risk to develop the illness.

Senator Ford. The not-so-serious question: You said you were in Dallas last week. Can you tell us what happened to J. R.?

Dr. Graham. I can't, except I did see "J. R. for President" bumper stickers and T-shirts, so I am not sure. He might be a viable candidate in Texas.

[The statement follows:]

Statement of Dr. Gary D. Graham, Corporate Medical Director, the Kemper Group

My name is Dr. Gary D. Graham. I am the corporate medical director for the Kemper Group. My company has been active for many years in the areas of alcohol misuse and alcoholism. It is an area in which I have both a personal and a professional interest.

As a major insurance carrier, we at Kemper feel the effects of alcohol-related traffic accidents daily. We see it in the outflow of dollars for property damage and we see it in the human tragedy of lost lives and maimed bodies.

The numbers are staggering. It is estimated that more than 50 percent of all fatal traffic accidents are alcohol related. Because reporting procedures vary from state to state, it's impossible to quantify exactly how many people die each year in accidents in which alcohol was a factor. But if we use the 50 percent figure, then the number is in excess of 25,000 annually. Needless to say, I support the intent of Senate Bill 2816. Any program designed to deal with the problem of the drinking driver must be intelligently planned, uniformly applied and vigorously conducted.

The strengths of Senate Bill 2816 as now drafted are: (1) The bill provides for the identification of the alcohol misusers and mandates rehabilitation or counseling efforts; and (2) the bill mandates uniform judicial redress which attacks the problem with punishments which are severe but yet are designed to eliminate potential future misuse rather than financial punishment.

I am pleased that these components are included in the bill. I think it important that any attempt at a uniform alcohol-traffic safety program have, as one of its primary goals, a system for identifying abusers. Only through such coordinated identification can we hope to channel these people into the proper counseling alcohol awareness programs which are known to have high percentage positive benefits.

I also think it important that an alcohol-traffic safety program have a mechanism available for the ultimate removal from the highways of those habitual offenders who—even after counseling—are incapable of coping with their problem. Lawmakers such as yourselves have a dual responsibility in this matter: one is to help those who have a drinking-driving problem, and another is to protect the innocent, law-abiding motorist from the chronic abuser. I think Senate Bill 2816 addresses both of these responsibilities.

I do have some concerns, however.

Our judicial system is often blamed for its role in allowing the habitual drunken driver back on the highways. Great latitudes allowed in punishment have been cited. Judges, society has charged, are not tough enough when metting out sentences and license revocations.

Additionally, it has been charged, the latitudes judges have had in sentencing have been abused in a "class distinction" sense. The white middle to upper class driver is far more likely to either have charges reduced or receive a light sentence than the young, indigent or minority motorist who is arrested on similar charges.

Senate Bill 2816 would remove much of this judicial latitude. However, I am concerned that perhaps we are merely shifting the burden from the judicial branch to the enforcement segment of the system.

Even today, law enforcement officers are frequently reluctant to issue citations or make arrests for drinking-driving violations. The administrative burden of such arrests, and the necessary follow-up court appearances, make them somewhat reluctant to make the arrest.

I am concerned that Senate Bill 2816 might add to this reluctance in charging an offender with driving while intoxicated. The knowledge of a mandatory stiffer penalties may force them to make personal, subjective judgments even more frequently. If this occurs, then much of the impact of Senate Bill 2816 will have been diluted.

It is a problem I think this committee must address.

I firmly believe that any comprehensive attempt to reduce the problem of the drinking driver must involve the enforcement, judicial and administrative segments.

My industry—and I speak now as an insurance representative—has mechanisms which protect each individual company from losses by habitual drinking drivers. The protection is primarily financial. Good drivers are rewarded with incentives in the form of lower premiums. Habitual offenders are, first, surcharged depending upon the severity of their offenses and, finally, the insurance protection is revoked in the form of a policy cancellation.

Our system, however, does not provide society at large with any measure of comfort. Therefore, the high risk driver is generally eventually placed in the "residual market," a pool of high risks in which all companies share in the resulting profit or loss. So while the habitual alcohol misuser is punished financially through the insurance mechanism, he is still at large on the highways. That is why, despite the reservations I mentioned earlier, I and my company, Kemper, support the intent of Senate Bill 2816. It provides the necessary combination of counseling assistance to those willing to recognize their problem and come to grips with it, and judicial teeth to remove those habitual offenders who do not handle their problem and therefore continue to be deadly highway menaces.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question 1. The President's Task Force on the Administration of Justice concluded in 1967 that drunken driving is and I quote, "a social problem of alcoholism and poverty, for which social services, not the penal-correctional process of the criminal law, are indicated." Would you agree?

Answer. I would not entirely agree with the statement—"a social problem of alcoholism and poverty, for which social services, not the penal-correctional process of the criminal law, are indicated."

Alcoholism is not a social problem. Alcoholism is an illness, and thus a health program, probably the nation's leading health problem. As with other illnesses—family, social and other problems may arise in the course of the illness as family, friends and fellow employees are affected. I agree that the penal-correctional process of criminal law is NOT the way to deal with the illness of alcoholism, but "social services" per se may not provide optimal treatment.

As stated in my testimony, some individuals who are arrested for driving-while-intoxicated (DWI) have simply misused the drug alcohol. That is, they have either been unaware of how alcohol affects driving abiliites, or have used poor judgement. Others, perhaps as many as two-thirds of those charged with DWI, have alcoholism in the early, middle or late stages of the illness. The penal-correctional system of criminal law SHOULD deal with the offense of DWI, but an identification and referral system, perhaps as part of an alcohol-safety action program, could refer affected individuals (those with alcoholism) to appropriate treatment.

Were this evaluation used prior to trail and sentencing, and were the judiciary able to use their discretion in sentencing, the penal-correctional system would be less misused with those who have alcoholism.

Question 2. Is the problem the lack of arrests in this area rather than the lack of sanctions imposed by the courts once people are arrested?

Answer. Arrests for DWI vary from state to state, locality to locality. In most jurisdictions, an arresting officer must deal with the DWI suspect in a much more complex, time-consuming manner. Rather than citing the person for a violation, an arrest is made and evidence obtained (blood, urine or breath sample). The individual must be transported to a detention facility, where bond is posted, etc. This means that the arresting officer must handle the DWI violation differently from most moving violations which can be dealt with at the site of violation. In addition, the arresting officer can anticipate court date postponements and an eventual trial appearance. Consequently, many individuals who are driving-while-intoxicated, but have not been involved in a major mishap, may have their charge reduced on-site to reckless or careless driving at the discretion of the law enforcement official.

Sanctions imposed by the courts also vary by jurisdiction. Usually, those of higher socio-economic status receive lesser sanctions. In some jurisdictions, where the illness of alcoholism is recognized, and an appropriate pre-sentencing evaluation has been accomplished, sanctions may give the individual motivation to enter treatment (in order to reduce the severity of the sanction). This has been found to be quite effective in prompting individuals to seek treatment. An example of this kind of "creative sentencing" is practiced by Judge Emerson in the Los Angeles area.

Thus, there are problems in this area with both the lack of arrests and the lack or variability of sanctions, which with revision, SB 2816 could address.

Question 3. Do you think the revocation of the license should rest solely with the Department of Motor Vehicles (DMV) or should it be shared with the judge or should the judge have this power alone?

Answer. I think the power of revocation of the driving privilege should reside with both the Department of Motor Vehicles (DMW) and with a judge.

Most states have laws regarding repeated moving violations accumulating within a defined period of time. With an accumulation of violations, the privilege of a license to drive may be revoked. This can best be done by the DMV, as those individuals who show repeated disregard for traffic regulations may not come to the attention of a judge.

On the other hand, as suggested by my previous responses, I feel a judge should have the power to revoke an individual's driving license for a DWI violation. This power allows the judge to protect society as he sees fit, as well as use this power as a motivating tool to intervene or confront an individual with alcoholism, and "guide" that person to treatment.

Question 4. Dr. Graham, you have testified that one effect of S. 2816 may be to shift the burden from the judiciary to the police. Could you explain what you mean by that?

Answer. As presently written, S.B. 2816 by imposing mandatory sentences for the DWI violator, would, I feel, increase the tendency for the law enforcement official to reduce the charge at the site of violation to a lesser charge that would not result in a mandatory jail sentence. Were the law enforcement official to feel that any substantiated DWI arrest would "automatically" result in imprisonment of the violator, fewer DWI arrests might be made, particularly of upper-middle-class violators—doctors, lawers, businessmen, legislators, etc. The arresting officer should feel free to make the arrest without feeling that automatic incarceration would be the result. Were the proposed bill sensitive to allowing discretion by the courts, and the police aware that the DWI violator could be helped as well as punished if necessary by the system, more DWI arrests could result.

Question 5. What do you consider to be the most important provision in this bill?

Answer. I consider the most important provision in this bill to be the mandate for states to establish alcohol safety action programs. Many such programs have already been established—some with Federal funding, and have been effective. They have educated alcohol misusers as well as identified people with alcoholism. Individuals with alcoholism have been referred for treatment, and numerous people now have continuing sobriety as a result. Others have understood their previous drug (alcohol) misuse, and have subsequently chosen not to drink and drive. Thus, rather than becoming repeated DWI violators or motor vehicle fatalities, these people have been helped by the system. This bill would encourage this benefit nationally.

Another potentially important provision in this bill is the uniform standard of impairment utilizing blood alcohol content (or equivalent). As stated in my testimony, the level of 0.1 percent is probably too high a level, and 0.08 percent is a more realistic level of significant impairment.

Question 6. In Kemper's work in this area, what have you found to be the most effective treatment for the drunken driver?

Answer. Kemper Group has a long standing Personal Assistance Program. Individuals may seek help voluntarily or may be referred by managers or supervisors. When drunken driving and a subsequent arrest for that occurs in a company vehicle or on company time, a referral to our program usually results. Others after a DWI conviction have sought help. In our program, appropriate education, referral for treatment and follow-up is accomplished.

As a Company, Kemper Group has long been active in encouraging other businesses to recognize the illness of alcoholism and its impact on insurance, mortality and costs. We have encouraged this recognition and establishment of programs to deal with alcoholism by literature publication, and assistance by direct contacts. We have lobbied for legislation to increase the legal drinking age to decrease teenage drunken driving frequency. We continue to feature alcoholism awareness and alcohol misuse information in company publications. We support any legislation directed at reducing drunken driving, and hopefully a Senate Bill aimed at this will be forthcoming.

Senator Ford. Thank you. You have been delightful.

This hearing is adjourned.

[Whereupon, at 11:45 a.m., the hearing was adjourned.]

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ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

RID NEW YORK STATE,
Schenectady, N.Y., June 24, 1980.

Senator HOWARD CANNON,
Chairman, Senate Committee on Commerce, Science, and Transportation, Washington, D.C.

DEAR SENATOR CANNON: RID-NYS would like to have the following entered into the record of your public hearing to be held on July 1, 1980:

Minimum penalties mandated for all the States are a very good idea, given the uneven justice handed out by Judges with tough maximum penalties, which are never invoked against rich constituents. However, if the public does not think that driving while intoxicated is a criminal offense, ways will be found to get around the law.

The Pell Bill is not unduly harsh, in the view of RID, and would set a strong, minimum standard for all the States who look for Federal Funding for their highway safety programs. The following reasons make bill passage and enforcement unlikely:

1. Judges, district attorneys and legislators use harsh laws as a means to serve their constituents as legal ticket fixers, i.e., getting back licenses as a favor, when suspended or revoked, allowing plea bargaining out of alcohol to escape the mandates for alcohol related convictions, making very grateful constituents of the offenders and their defense attorneys, who earn $500 to $1,000 a case in New York, for getting plea bargains and continuances from the Judges and D.A.S.
2. The public still does not know that two-thirds of all those alcohol-related crashes that kill and maim people are caused by chronic alcoholics and habitual drunkards, and will resist legislation they imagine punishes the "unlucky" one time party-goer that takes one too many.

Therefore, legislators should be acquainted with the facts, and Federal monies now spent for therapy for the drunk driver (80%) should be released to prevention programs, such as court watching, and other awareness programs which involve local citizens and governmental institutions. Law enforcement is a local phenomenon. Along with prevention goes monies for law suits against those government agencies that don't enforce the law, or protection the sober citizen driver, like many motor vehicle departments. The victim's rights and economic claims are not addressed in this bill. Fines and restitution to the victim are more important than jail sentences for the offender. Weekend community service rather than jail sentences, which help victims would seem more reasonable and useful. States do not now have the jail space available for all these drunk drivers. Sending the culprit to a work camp for three weeks on needed government projects with appropriate fines to be paid to victims, if any, or if not, put into a pool for victims would seem desirable. A clause forbidding plea bargaining out of alcohol is most important for effective implementation of this bill.

Respectfully submitted.

DORIS AIKEN,
President, RID-NYS, Capital Area.

BALTIMORE, MD., *June 25, 1980.*

Hon. HOWARD W. CANNON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CANNON: I am writing to ask you to support the Alcohol-Impaired Driver Act (S.2816) introduced by Senator Pell and to be heard before your committee on July 1st.

Others better qualified than I have the facts and statistics on the tragedies caused by drinking drivers, but I write from a purely personal experience shared by thousands of others.

My husband and I recently had our twenty-five years old son killed by an alcoholic with a seven year record of alcohol related accidents. Our son was a paramedic with E.M.S. of the State of Maryland.

The pain and heartache of such a loss we know will remain with us for the rest of our lives, but death by irresponsibility is doubly hard to bear.

No laws can bring back our children; we must learn to live with the fact that they'll never again walk in the front door and say, "Hey, Mom, what have you got that's good in the refrigerator?" But strong deterrent laws may keep some other families from this sorrow.

I would appreciate having this letter included as part of the hearing.

Most sincerely,

SHIRLEY W. JOHNSON.

CITIZENS FOR BETTER DRIVER RECORDS,
Washington, D.C., June 25, 1980.

Senator HOWARD W. CANNON,
Chairman, Senate Committee on Commerce, Science, and Transportation, Washington, D.C.

DEAR SENATOR CANNON: On behalf of our national membership of individual citizens and affiliate groups we fully support the Alcohol-Impaired Driver Act (S.2816).

The prime aim of our national non-profit public interest organization is to prevent thousands of highway deaths and maimings each year caused by drunk drivers and other chronic offenders. Therefore, we view this bill as a significant means of achieving our basic purposes.

Once this legislation is passed it will give notice to drunk drivers nationwide that now this country will no longer condone "murder on the highways". The passage of this measure has been delayed far too long.

Millions of families of highway crash victims implore you to act now.

Please make this letter a part of your July 1, 1980 hearing on the Alcohol-Impaired Driver Act.

Sincerely,

KEN NATHANSON, *President.*

INSURANCE INSTITUTE FOR HIGHWAY SAFETY,
Washington, D.C., July 3, 1980.

Hon. WENDELL H. FORD,
Chairman, Consumer Subcommittee, Committee on Commerce, Science, and Transportation, U.S. Sentate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your June 27 invitation to comment on S. 2816, a bill to amend section 402 of title 23, U.S. Code, to establish a comprehensive alcohol-traffic safety program in each major political subdivision.

The tragedy of our present drunken driving problem is not only centered in its continuing magnitude, but also in the fact that there is considerable evidence that many of the standard approaches to it do not work. State and local governments have consistently resisted the full application of the tough laws long already on their books; only tiny fractions of persons driving while under the influence of alcohol are apprehended; of those, only tiny fractions are ever convicted of a relevant offense; and of the latter, only tiny fractions ever receive major sentences. As a result, there is, as far as we are aware, no likelihood that even tougher laws would produce more societally favorable results. Moreover, excellent research has shown that recidivism is worse among persons placed in alochol rehabilitation programs than among those treated in more conventional ways by having their licenses suspended or revoked.

In addition, the evidence is very clear that despite widespread folklore to the contrary, the Scandinavian countries with (at least theoretically) the toughest sanctions have very major drunken driving problems in many respects apparently very similar to our own.

One of the reasons, we believe that this huge problem has continued unabated for at least 60 years in the United States is that people have assumed without evidence that popular ideas as to how to deal with it do, in fact, bring about the wished-for reductions in its severity. If the issue were a serious infectious disease or other medical problem killing and maiming as many people, we would demand, as responsible professionals, far better evidence of countermeasure efficacy before endorsing and legislating specific control measures.

I note further that failure to do so is not only expensive in morbidity and mortality and in the associated economic losses to our society, but it is also expensive because such programs can produce huge drains on the public treasury. As a case in point, the Congress appropriated a few years ago, and the National Highway Traffic Safety Administration spent, $78,000,000 on 35 intensive so-called Alcohol Safety Action Programs (ASAPs). The best scientific research, scrupulously and accurately done, comparing deaths in those jurisdictions with carefully matched unmanipulated jurisdictions found no decreases whatsoever as a result of the program.

For these several reasons, we cannot support the bill.

Sincerely,

William Haddon, Jr., M.D.,
President.

Highway Users Federation for Safety and Mobility,
Washington, D.C., July 11, 1980.

Hon. Wendell Ford,
Chairman, Commerce, Science, and Transportation, Consumer Subcommittee, U.S. Senate, Russell Senate Office Building, Washington, D.C.

Dear Mr. Chairman: The Highway Users Federation is a nonprofit coalition of more than 450 businesses, industries and associations promoting improved highway transportation safety. Our membership cuts across more than 30 industrial and commercial categories. The Federation and its affiliate the Automotive Safety Foundation, have a long-standing record of action and support for improved highway safety.

Senator Pell is to be commended for focusing congressional attention upon the nation's drinking-driving problem by introducing S. 2816. In our judgment, this attention is long overdue.

We think S. 2816 should be expanded. The Committee should propose a national alcohol safety program which deals with drinking-driving as part of the alcohol problem, recognizing that alcohol abuse is a pervasive social problem, of which drinking-driving is but one manifestation.

Two things are needed: (1) Funding adequate to reflect the priority Congress gives this program, and (2) an updated state-of-the-art report from the U.S. Departments of Transportation and Health and Human Services. The proposed report should recommend appropriate regulatory and legislative action, including estimates of costs and expected benefits. To the extent possible, recommended legislation should call for state and community programs which experience has proved to be effective in producing safety gains.

We further believe that Congress should take this opportunity to revitalize the interest and concern of public and private sector highway safety organizations in renewing their efforts to curb drinking drivers. Congress can do so by holding timely hearings on legislation recommended in the proposed report.

Given the prevailing public attitude about drinking and driving, mandatory sentencing could, in the longer term, prove counterproductive. A key factor in determining the success of a mandatory sentencing approach to curbing drinking-driving would lie in the ability to convict offenders. Obtaining convictions of drunken motor law offenders is difficult at best; imposing mandatory penalties may well make obtaining convictions even more problematic.

The American Bar Association's "Standards Relating to Sentencing Alternatives and Procedures," notes that "mandatory sentences rarely accomplish the ends they seek. The certainty of punishment which is sought by such provisions is illusory. There are numerous discretionary devices—ranging from acquittal of the guilty to reduction of the charge—by which the judge, if that is his purpose, can frustrate the effect of a mandatory sentence." Similar attitudes elsewhere in the criminal justice system may affect police, prosecutors and juries, likewise frustrating the good intentions of such a law.

In our view, S.2816 raises other questions and concerns which the bill, as currently drafted, does not address. Briefly stated, they are as follows:

State and local governments will find it difficult to fund such programs without federal help. According to NHTSA's "Alcohol Safety Action Program Progress Report," (May 1979), start-up costs for program administration—from the state to the community level—of an alcohol safety action project average approximately $100,000. Overall, a typical project expends about $300,000 annually, requires from $15,000 to prepare for strengthened selective enforcement efforts, and generates only $60,000 per year on fines. These figures suggest that the bill's goal of making these projects financially self-supporting will be difficult to achieve.

The Highway Safety Act of 1978 changed the direction of Section 402 programs by giving the Secretary of Transportation authority to amend or waive the National Highway Safety Program Standards so that states would have greater flexibility in seeking solutions to problems of particular concern to those jurisdictions. The bill would reduce this desirable flexibility by spelling out in significant detail, the type of program each state must have.

We are concerned that the bill provides for withholding Section 402 funds from states failing to comply with requirements of the legislation. While Section 402 funds make up only about three percent of the total traffic safety dollars spent each year by states and their political subdivisions, the funds justify federal presence and help assure participation in the federal-state highway safety partnership created by Congress in 1966. We would suggest that some incentive approach to encourage states to step up their alcohol safety programs would be preferable to the punitive measure in the bill.

The legislation proposes to increase the burden on police traffic law enforcement at the state and community level at a time when the energy-related 55-mile-an-hour national speed law enforcement program is placing substantial demands on the capabilities of law enforcement agencies. We do not imply that one program is more important than the other, but we do suggest that the time and manpower limitations on the police should not be overlooked in legislation on this nature.

On a more positive note, we applaud the requirement that convicted drinker-drivers participate in safety or alcohol treatment programs. This approach has been tried in a number of jurisdictions around the country. A nationally noted "success story" is the Virginia Alcohol Safety Action Program, which expanded from a project in Fairfax County into the present statewide program in 1975. We would strongly support this element of the proposed legislation.

Cordially,

ROBERT M. CALVIN,
Manager, Highway Safety Programs.

NATIONAL COMMITTEE ON
UNIFORM TRAFFIC LAWS AND ORDINANCES,
Washington, D.C., July 22, 1980.

Hon. HOWARD CANNON,
Chairman, Senate Committee on Commerce, Science, and Transportation, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This letter responds to Senator Ford's request of July 3, 1980 for the views of the National Committee on Uniform Traffic Laws and Ordinances on Senate Bill 2816, the Alchohol-Impaired Driver Act.

The National Committee on Uniform Traffic Laws and Ordinances revises and urges adoption of the *Uniform Vehicle Code*. First published in 1926, this document has served as the basis for most motor vehicle and traffic laws in the United States.

The National Committee on Uniform Traffic Laws and Ordinances has not considered Senate Bill 2816. When my Administrative Committee met on June 20, 1980, it recommended that I provide you with information about the National Committee, the Uniform Vehicle Code and comparable state laws without taking a position on the desirability of enacting Senate Bill 2816. For these reasons, the National committee has no views to offer on the merits of Senate Bill 2816.

There are two enclosures. The first provides some information about the National Committee and our Uniform Vehicle Code. The second compares provisions in S.B. 2816 with those in our Uniform Vehicle Code and state laws. Though there has not been enough time for our Staff to provide detailed comparisons, there are references to published documents where the information is available.

Sincerely,

EDWARD F. KEARNEY,
Executive Director.

Enclosure.

THE UNIFORM VEHICLE CODE AND THE NCUTLO

Introduction

The Uniform Vehicle Code is designed for adoption by the Legislature of each State to achieve quality and uniformity among regulations affecting the use of our highways. First published in 1926, this document has been periodically updated and has served as the basis for most state vehicle codes in the United States. The Uniform Vehicle Code is revised and published by the National Committee on

Uniform Traffic Laws and Ordinances, a nonprofit, independent organization located in Washington, D.C.

History of the national committee

Efforts to achieve uniform motor vehicle laws date back to 1923 when the National Conference of Commissioners on Uniform State Laws first considered developing a uniform act. With the appointment in 1925 of a uniform laws committee by the National Conference on Street and Highway Safety, the two groups worked together and produced the first edition of the Code in 1926. Since its creation in 1947, the National Committee on Uniform Traffic Laws and Ordinances has been the custodian of the Uniform Vehicle Code.

The National Committee is a carefully selected group of more than 140 representatives of federal, state, and local governmental units (legislators, police officers, highway and traffic engineers, motor vehicle administrators, judges, prosecutors, educators, mayors, and county officials), motor vehicle equipment manufacturers and dealers, insurance companies, motor clubs, safety councils, trade associations, national transportation associations, and other individuals and groups having an interest in achieving sound, uniform motor vehicle laws and regulations throughout the United States.

Principles followed in revising the Code

In formulating provisions for the Code, the Committee operates under governing rules which require:

(1) that the Code reflect principles of the best local, state and federal laws and regulations and, toward that end, that members be fully informed as to the status of comparable state laws;

(2) that the Code be limited to essential provisions and not include technical standards or administrative procedures;

(3) that provisions be amended only for important reasons, after thorough consideration, and upon a showing of their desirability or necessity; and

(4) that, insofar as possible, provisions in the Code represent mutual understanding and agreement among members of the Committee and the organizations or agencies they represent.

In addition, because many provisions in the Uniform Vehicle Code establish rules for the safe and efficient use of highways that are often used to resolve criminal or civil responsibility, the Committee makes every effort to express principles of state laws as clearly and as realistically as possible.

For more detailed information about the National Committee and its efforts to achieve good, reasonably uniform traffic laws, see pages 123 through 204 in House Document 92-9 entitled "Highway Safety, Design and Operations—Wet Weather Performance, Studded Tires, Lack of Uniform Traffic Laws," Hearings before the Subcommittee on Investigations and Oversight of the Committee on Public Works of the House of Representatives (92nd Congress; May, 1971).

SENATE BILL 2816 AND PROVISIONS IN THE UNIFORM VEHICLE CODE AND STATE LAWS

SENATE BILL 2816

Senate Bill 2816 would encourage states to have programs to help solve problems caused by drivers who operate their vehicles after consuming too much alcohol.

Under Senate Bill 2816, a program would have to meet certain standards. The ones related to action by state legislatures are:

1. *Mandatory jail sentences.*—Each person convicted of driving while under the influence of alcohol must be sentenced to 10 days in jail or a comparable term of community service.
2. *Mandatory treatment or education.*—Each person convicted of driving while under the influence of alcohol must participate in a safety or alcohol treatment program.
3. *Mandatory license action.*—Each person convicted of driving while under the influence of alcohol must lose his license. For the first conviction, the license must be suspended but the person may receive a restricted license. For a second conviction, his license must be revoked for at least one year.

MANDATORY JAIL SENTENCES

Uniform Vehicle Code

Upon first conviction, the Uniform Vehicle Code provides a penalty of 10 days to one year or a fine of $100 to $1,000. Thus, for first offenders, the Uniform Vehicle Code does not mandate a jail sentence as would S.B. 2816. However, on a second or subsequent conviction, the Uniform Vehicle Code would require at least 90 days in jail. See UVC § 11-902(c) (Supp. III 1979).

State laws

As of January 1, 1979, most state laws agree with the Uniform Vehicle Code by providing a jail or dollar penalty for first offenders. The only states whose laws require a first offender to serve time in jail are: Alaska, 3 days; Arizona, 1 day (recently reduced from 10 days); Arkansas, 1 day; Ohio, 3 days; Oklahoma, 10 days; Tennessee, 2 days; Texas, 3 days; Washington, 5 days; and West Virginia, 1 day.

As to repeat offenders, however, more states require the imposition of jail sentences on convicted drunk drivers: Alaska, 10 days; Arizona, 60 days; Arkansas, 10 days; California, 2 days; Colorado, 90 days; Connecticut, 60 days; Delaware, 60 days; Florida, 10 days; Georgia, 90 days; Illinois, 90 days; Indiana, 5 days; Kansas, 90 days; Louisiana, 125 days; Maine, 1 day; Missouri, 15 days; New Mexico, 90 days; North Carolina, 3 days; North Dakota, 3 days; Oklahoma, 360 days; Tennessee, 5 days; Utah, 32 days; Virginia, 30 days; Washington, 30 days; West Virginia, 180 days; Wisconsin, 5 days; and Wyoming, 60 days;.

Some state laws provide increased penalties for third or subsequent convictions. (As to such multiple offenders, Louisiana's 10 to 40 years at hard labor for a fourth or subsequent conviction is the most severe.)

In addition to the penalties shown above, a few state laws specify a more severe penalty when the drunk driving involves injury to any person. In California, for instance, the penalty is 90 days to one year. Many states provide greater penalties when the drunk driving causes a fatality.

If fully implemented by the states, it is clear that S.B. 2816 would result in substantial changes in the drunk driving penalties for first offenders in virtually every state.

For more information about penalties provided for drunk drivers by state laws, see Traffic Laws Annotated (1979).

MANDATORY TREATMENT OR EDUCATION

Uniform Vehicle Code

UVC § 11-902.2 (Supp. III 1979) would require a court to determine whether the convicted drunk driver is an habitual user of alcohol. If he is, the court may order appropriate treatment. If he is not, the regular penalties would apply. This procedure is mandatory for all multiple offenders but is discretionary for first offenders. Though the UVC does not mention a "safety treatment program," UVC § 17-103(a)(2) (Supp. III 1979) authorizes a court to require completion of a driver improvement program for all violators.

State laws

As of January 1, 1979, twenty-six states had adopted laws on alcoholism treatment for persons convicted of driving under the influence of alcohol. These laws do not mandate a presentence investigation (except in Pennsylvania) nor participation in an alcohol treatment program so S.B. 2816 would result in substantial changes in the laws of every state.

MANDATORY LICENSE ACTION

Uniform Vehicle Code

Since its publication in 1926, the Uniform Vehicle Code has always provided for mandatory revocation of the license of any person convicted of driving while under the influence of alcohol. See UVC § 6-205 (1968). Under UVC § 6-208, the revocation would be for one year. However, since 1971, the Uniform Vehicle Code has provided for restoration of the license of any person undergoing treatment for alcohol abuse. See UVC § 11-902.2(f) (Supp. III 1979).

State laws

As of January 1, 1972, 42 states provided for mandatory revocation or suspension of license for any person convicted of drunk driving. In about half of these states, the license action terminated a person's driving privileges for one year as in the UVC; but, in other states its duration was from one to six months for the first offender. Longer periods generally were specified for multiple offenders. See Driver Licensing Laws Annotated 235-44 (1973).

Between 1972 and 1978, close to 40 states amended their laws on this subject. See 1978 Annual Supplement for Driver Licensing Laws Annotated, pages 133-147.

If implemented by the states, it would appear that S.B. 2816 would not require changes in the laws of most states as to withdrawing a person's driving privileges.

International Association of Chiefs of Police, Inc.,
Gaithersburg, Md., July 23, 1980.

Hon. Wendell H. Ford,
U.S. Senate, 4107 Dirksen Senate Office Building,
Washington, D.C.

Dear Senator Ford: On behalf of the International Association of Chiefs of Police (IACP), I wish to express our regret that we were unable to participate in the recent hearings concerning S. 2816 (originally S. 415), the Alcohol-Impaired Driver Act. I would like to take this opportunity, however, to inform the Committee on Commerce, Science, and Transportation of the views of the Association generally, and specifically its Division of State and Provincial Police, concerning the proposed legislation.

The IACP agrees with the generally supports the proposed legislation as a potentially beneficial measure in an effect alcohol-traffic safety program. However, there is some concern regarding the mandatory sentencing insofar as the length of time proposed (Paragraph H (2)(a)). The 10 day period is viewed by the IACP as excessive, especially for first time offenders. A mandatory sentence is itself a deterrent measure, in that drivers know they will be penalized for committing the offense. This fact alone will deter a number of motorists from driving while under the influence. It is the opinion of the Division of State and Provincial Police that a more realistic sentence, possible one or two days for first offenders, would meet the greater acceptance and have a far better chance of being implemented. Further, the Division is in agreement with the proposed legislation that alternate service would certainly be a viable option in the sentencing of DWI offenders.

Again, thank you for allowing the IACP to express its concern about this proposed legislation. The law enforcement community is greatly concerned by the number of alcohol-related accidents, and views this legislation as a step toward their reduction. We appreciate having had the opportunity to comment, and thrust that our concern regarding the length of mandatory sentence will be given due consideration by the Committee.

If you have any questions or desire additional information, please do not hesitate to contact me.

Sincerely,

R. H. Sostkowki,
Director, Division of State and
Provincial Police.

State of Minnesota,
Department of Public Safety,
St. Paul, Minn., July 31, 1980.

Hon. Claiborne Pell,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Pell: Governor Quie has a deep personal concern for control of the drunken driver, especially as a part of the broader social and health problem of alcoholism and other chemical dependency. In Minnesota, arrest for drunken driving is the single biggest channel into treatment for alcoholism. We regard the urgent need to make DWI arrests as an opportunity to use one social problem—drunken driving—as a lever on another social problem—alcoholism. Governor Quie has directed that a complete response be prepared for the Committee considering S. 2816, providing a description of Minnesota's program directed toward the objectives of the Alcohol-Impaired Driver Act and offering comment both on those elements which Minnesota supports and those with which we disagree.

Minnesota has a strong body of law going far beyond simply forbidding drunken driving and establishing penalties. Over the years Minnesota has been first, or among the first, to establish implied consent, .10 alcohol concentration as illegal per se to drive, pre-arrest breath testing, post mortem blood testing of fatally injured drivers, required alcohol problem assessments (pre-sentence investigation) on first offense convictions if the original charge was DWI, and other measures which are innovative when first adopted.

One recently enacted (1976) feature of Minnesota law, however, remains unique to this state. Within Minnesota's implied consent law is a requirement that when a test is given and the result is a .10 or higher alcohol concentration, that result must be reported to the Department of Public Safety and the driver's license is revoked for 90 days. The revocation period for refusing the test is six months. This administrative revocation takes place even if there is a plea negotiation on the original charge. If there is a prompt plea of guilty to DWI on the criminal charge, then the statutory 30 day license revocation for first offense is imposed instead of the administrative 90 day revocation. An alcohol problem assessment is conducted either following the court trial or in connection with the administrative revocation for failing the test. Individually tailored limited licenses may be issued in either kind of revocation, in order to allow attendance at a treatment facility, work, school or to do other limited specific kinds of driving.

The combination of these different actions taken in drunken driving cases means that all cases are identified on the driver record as being alcohol-related even though there may have been a plea negotiation. In this way courts may have the advantages of plea negotiation, and yet the fact of alcohol involvement is not lost to the record. In fact, beginning this month, complete data from the alcohol problem assessment, including the identification of a drinking problem, alcohol concentration at the time of the arrest, treatment referrals and other data, will be entered on the driving record. This will make it possible to do a better job of looking at the successes and failures of penalties, treatment, education and problem assessment itself.

Thus it may be seen that Minnesota, in its efforts to achieve the same purposes as are addressed by S. 2816, has included within its alchohol-traffic safety program similar elements to those required by S. 2816, with the one notable exception of a mandatory jail sentence, which is discussed below.

We have no hesitancy in recommending to other states those aspects of the Minnesota program which are now in place. That is not to say that we have achieved success, that there are no longer drunken drivers on our roads or that alcohol-related traffic crashes are dramatically dropping. Indeed, we take small comfort in the fact that the problem is barely being held in check while the per capita consumption of alcohol increases and the broader problem of alcoholism and other chemical dependency likewise seems to be increasing.

Our most significant problem in Minnesota is our inability to commit the massive police resources which would be necessary to significantly increase arrest rates. Again, we take very little pride in the fact that Minnesota's drunken driver arrest rate is about one arrest for every 300 times a person drives drunk, while the national average is reported to be about one arrest out of 2,000 such drunken driving episodes. The graphical depiction of the size of the problem as compared with the number of arrests made in attempting to control it (Appendix A.) provides a chilling picture of the drunken driving situation.

S. 2816 rightfully urges that an alcohol-traffic safety program be "financially self-supporting to the extent possible," and Minnesota's treatment and education programs approach that. We realize, however, that the total cost of the drunken driver control program is a direct financial burden on the general taxpayer who supports the costs of the system. It could be argued that taxes on alcoholic beverages provide a more appropriate source of funding for the control of drunken drivers than general property, income, or sales taxes.

An interesting bill was considered by the Minnesota Legislature in the 1977–78 session which would have established a "nickle-a-drink" tax on alcoholic beverages sold for consumption on the premises. It would have imposed, at the wholesale distributor level, a tax of five cents per ounce of liquor, five cents per 12 ounces of beer, and five cents per five ounces of wine for resale by the drink at bars or restaurants. This revenue would then be used to reimburse local communities and the state itself for the whole range of services performed in the control of the drinking driver. A flat rate per service rendered was proposed to simplify the reimbursement task: $150 per DWI arrest, $100 per prosecution, $100 per public defender case, $35 per pre-sentence alcohol problem assessment, $25 per day of jail, $50 per day of detoxification center care, $15 per hour of extra-duty police patrolling for DWI. The bill attracted considerable attention and thoughtful editorial support. It passed the committees in which it was heard but did not reach the taxes and appropriations committees in time to be heard before the session ended. It was not re-introduced. A comprehensive packet of information on this bill is attached as Appendix B.

Our experience in Minnesota, as well as the experience in other states, leads us to seriously question the effectiveness of statutory mandatory jail sentences for drunken driving. Minnesota did have a requirement for mandatory jail sentence for repeat offenders, but because these repeaters were widely and correctly perceived as the most likely group to be alcoholics in need of treatment, the "mandatory" jail sentence was usually stayed if the offender agreed to undergo treatment. There was, however, no need for the jail sentence to be statutorily mandated in order for the judge to use a stayed jail sentence as a means of coercing rehabilitation. In fact, that is the means by which our courts now make referrals to treatment or education. The usual way a Minnesota court refers a person to treatment or education is as a condition of probation, along with a stay or suspension of some part of the sentence.

Sentencing might sound something like this:

"You have been found guilty of drunken driving and the court has had an alcohol problem assessment conducted to determine whether or not you have a drinking problem and what you should do to get that problem under control. The court services officer has already discussed this with you and you know that the recommendation is that you participate in the out-patient program at the XYZ Chemical Dependency Treatment Center. This court sentences you to pay a fine of $500 and to serve 30 days on these conditions: First, that you successfully complete the treatment program and the follow-up; second, that you have no further alcohol-related traffic violations during the next year; and third, that your fine is paid before the fifteenth of next month. If you satisfactorily complete your treatment program and otherwise comply with the terms of your probation during the next year, the jail sentence will be suspended."

Courts use a wide variety of probation conditions to coerce participation in treatment programs as well as to influence the offender's behaviour during the probationary period or to achieve other outcomes. This variety includes such things as requiring community service in lieu of dollars or jail, making restitution for damage to others, work-release jail terms, affiliation with Alcoholics Anonymous, regular reporting to the probation officer or alcohol counselor, and many others.

During the time in which our legislature has acted to strengthen and improve Minnesota's drunken driving law, it has also removed the mandatory jail sentence from our law, clearly believing the theory of deterrence which holds that it is the likelihood of the penalty, rather than its severity, which deters.

Our experience suggests that other jurisdictions also find mandatory jail sentences, despite their understandable purposes of cracking down on drunken drivers, tend to be counter-productive and result in fewer arrests, more plea bargaining, and fewer convictions. A few years ago judges in Chicago agreed to impose a seven-day jail sentence on all persons convicted of DWI, and their action was widely publicized; but after six months only 557 of 6,600 drivers arrested for DWI had actually received such a sentence.

The proposal in S. 2816 that makes it possible for states to impose sentences of alternative community service is, however, a very supportable measure. And there is no reason why courts cannot now impose such sanctions as a condition of probation in lieu of a jail sentence if that sentence is merely authorized rather than mandated by statute.

The huge, complicated social problem which the drunken driver presents will not yield to quick-fix solutions, but there is considerable room for improvement in our attack on that problem. Introduction of the Alcohol-Impaired Driver Act is evidence of the fact that Congress wants the problem attacked vigorously. The General Accounting Office Report to the Congress, "The Drinking-Driver Problem—What Can Be Done About It?" provides a good basic examination of the complexities, and among its conclusions states:

"We believe that before any significant reduction in alcohol-involved accidents will occur, a long term continuous commitment, probably lasting for generations, must be made."

Minnesota has made that long term continuous commitment to a reduction in drunken driving. We do hope, however, that it will not take generations.

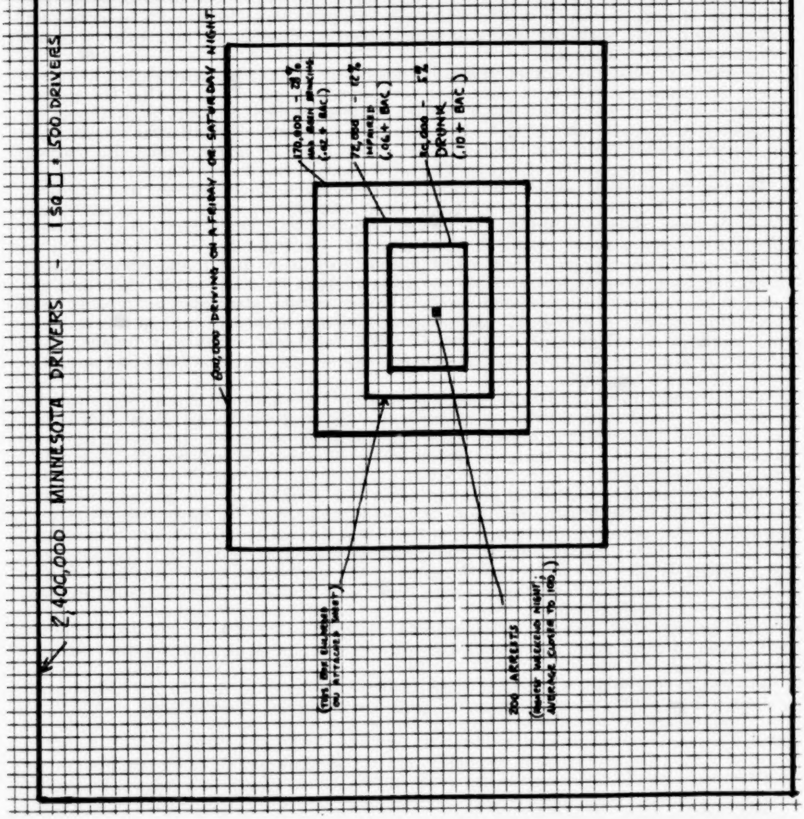
Sincerely,

JOHN P. SOPSIC,
Commissioner of Public Safety,
Governor's Representative.

Enclosure.

APPENDIX A

Fig. 1.


2,400,000 MINNESOTA DRIVERS - 1 SQ □ = 500 DRIVERS
600,000 DRIVING ON A FRIDAY OR SATURDAY NIGHT
170,000 - 28%
HAD BEEN DRINKING
(.02+ BAC)
72,000 - 12%
IMPAIRED
(.06+ BAC)
30,000 - 5%
DRUNK
(.10+ BAC)
(THIS BOX ENLARGED ON ATTACHED SHEET)
200 ARRESTS
(BUSIEST WEEKEND NIGHT; AVERAGE CLOSER TO 100.)

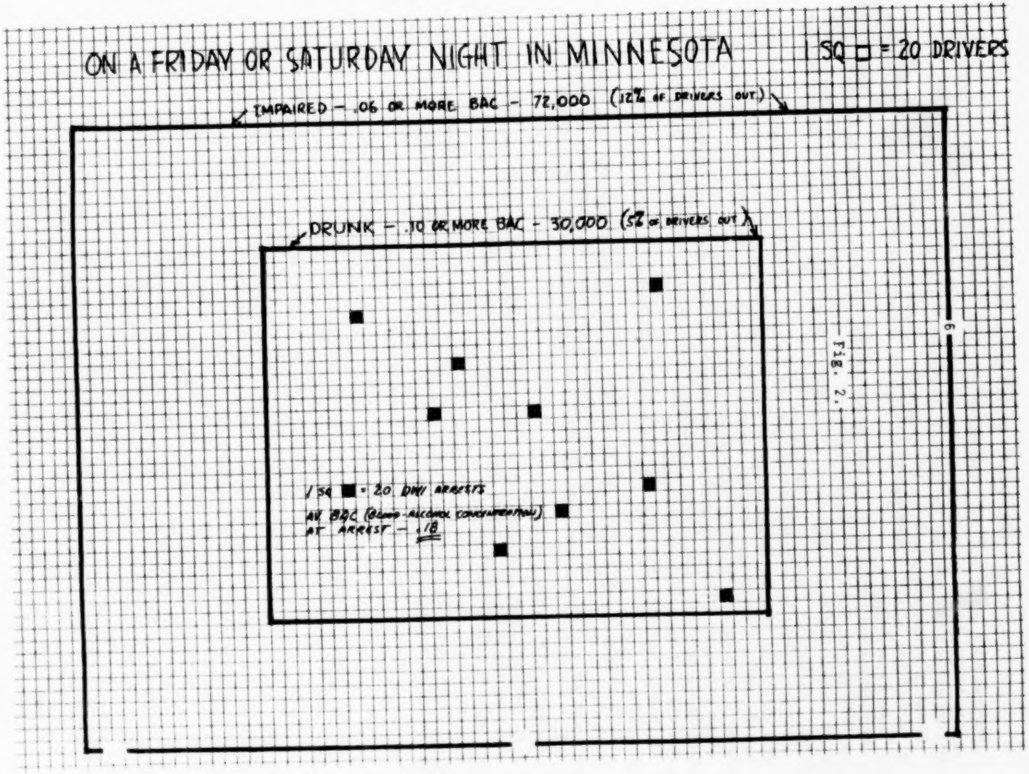

ON A FRIDAY OR SATURDAY NIGHT IN MINNESOTA
1 SQ □ = 20 DRIVERS
IMPAIRED – .06 OR MORE BAC – 72,000 (12% OF DRIVERS OUT)
DRUNK – .10 OR MORE BAC – 30,000 (5% OF DRIVERS OUT)
1 SQ ■ = 20 DWI ARRESTS
AV. BAC (BLOOD-ALCOHOL CONCENTRATION)
AT ARREST – .18

Fig. 2.

APPENDIX B

SUMMARY OF HF 1381—SF 865

Purpose.—To shift cost of controlling drunken drivers from the property and income taxpayer to consumers of on-sale alcoholic beverages; to increase drunken driving arrests and provide for costs on increased drunken driver control.

Taxes at wholesale, alcoholic beverages for re-sale by the drink. Rate: 5 cent per oz. of distilled liquor, 5 cent per 12 oz. of beer, 5 cent per 4 oz. of wine. (Equivalent of "a nickel a drink".)

Reimburses government units for drunk driving controls services as follows: $150 per DWI arrest; $100 per prosecution; $100 per public defender case; $35 per presentence alcohol problem assessment; $25 per day of jail; $50 per day of detox; $15 per hour of extra-duty police patrolling for DWI.

Pays for following existing drunk driving control costs and anticipated increases with increased arrests: Department of Public Safety and Attorney General alcohol-related traffic functions—implied consent hearings—drivers license actions—BCA chemical testing and training—information and education.

New programs.—Training and coordination seminars for court personnel, police, chemical dependency specialists, and other professionals dealing with alcohol-traffic problems and costs of their attendance.

Grants to counties and municipalities for their own DWI prevention and control programs.

Also provides.—"Client fee" for treatment of education programs and probation monitoring to be paid for by offender. Payment by state for indigents. Payment for extended or inpatient treatment up to $750 if no other source of non-public payment.

Revenue.—$27 million annually.

Cost.—$19 million first year, assuming 30,000 DWI arrests and resulting costs.

Tax formula allows for expansions of drunken driver control actions to twice what they were in 1976 (20,000 arrests.)

Tax relief.—To the extent that local and state governments are relieved of general tax costs and pass on that relief to the property and income taxpayer, the bill may be called a tax relief measure.

625 Second Avenue South
Minneapolis, Minnesota 55402
612 338-4756

Re: S.F. 865 (Schaaf, Benedict)

H.F. 1381 (Arlandson, Ellingson, A. Kempe,
K. Nelson, Albrecht)

Prepared March 4, 1977, Reproduced August 12, 1977

Commentary on drunk driving control cost shift bill.

PURPOSES The purposes of this bill are to:

1. Shift the existing costs of controlling the drunken driver (about $11 million at present level of enforcement) from the general taxpayer who pays those costs now, to consumers of on-sale alcoholic beverages.
2. Increase the amount of drunken driving law enforcement which communities can afford to conduct.
3. In addition to paying for present costs (prosecution, public defender, pre-sentence alcoholism assessments, jail, treatment for indigent, and many other related drunken driver costs) this bill anticipates paying for the higher costs which will result as a greater proportion of the drunken driving population is arrested and comes into the system.
4. Provide regional and statewide training and coordination programs for professional groups, such as police, probation officers, chemical dependency specialists, judges, prosecutors, defense attorneys, driver education teachers and others, as well as seminars and workshops to bring some of these specialties into communication with each other. Pay costs of those public employees attending.
5. Provide communities and counties with the resources to carry on their own prevention and education programs.
6. Establish offender fees for rehabilitation, with funds to pay for indigent cases only.

SECTION 1 This section establishes the basic system and

and establishes the formula for an excise tax on the gross receipts from the sale of liquor by wholesalers to retail dealers for the purpose of resale at on-sale establishments by the glass or by the drink.

The additional tax is at the rate of 5¢ per ounce of distilled liquor, 5¢ per 12 ounces of beer, and 5¢ per 4 ounces of wine.

REVENUE SOURCE

This is the equivalent of a nickel-a-drink tax (although not collected per drink) or 5¢ per half-ounce of alcohol regardless of the form of the beverage. If the bar is pouring a bigger drink a proportionately higher tax is being put on it; conversely, the buyer of a short beer is being taxed proportionately less. This, of course, assumes that the bar will raise the price of a drink as their cost of materials increases, just as their prices increase as their rent, fuel, or payroll costs increase.

WHY ON-SALE?

The question could be asked, why not tax all alcoholic beverages, but at a lower rate, whether bought through a bar by the drink or off-sale by the bottle. There is no particular reason for not using that method, except that there is a much closer prima facie assumption of bar sales being related to the drunken driver or pedestrian. The buyer of wine, beer or liquor for moderate home consumption who does not drive after drinking and is therefore not a part of the problem might argue persuasively against this kind of special purpose tax. On the other hand, that same moderate social drinker who is not giving any problem, is already, along with the non-drinker, paying for the costs of controlling the drunken driver, because all of us now bear these costs as general taxpayers whether we drink or not.

Likewise it could be argued that not all buyers of on-sale drinks are part of the problem (although as general taxpayers they, too, are paying now). So that the person who buys one or two drinks is going to pay an extra nickel or dime, but the buyer of 10 or 20 drinks is going to pay 50¢ or a dollar and there is much more likelihood of his investment paying off in the form of his receiving the services this bill provides!

Subd. 4 of Section 1 describes the use of proceeds of the tax. This use was described above, under "PURPOSE" and will be expanded on in the comments on Sections 2 and 3 below.

SECTION 2

A. Section 2 appropriates the annual proceeds to the Commissioner of Public Safety, and directs the distribution to state, county, or municipal governments providing various services in the enforcement of drunken driving laws or in the prevention of drunken driving;

B. Establishes in Department of Public Safety an office of alcohol and drug related traffic control programs to administer the program;

C. Authorizes Commissioner to adopt rules for administration of Section 2 and 3;

D. Establishes a schedule of fixed fees per service rendered to be reimbursed to the state, county, or municipal governmental unit which incurred them, as follows: (Comment or argumentation for each is included where needed.)

(Numbering follows paragraph numbers in the Bill)

DWI ARRESTS...

...COMPLICATED...

(1) $150 for each drunken driving arrest. Arresting drunken drivers is a time-consuming, complicated and hence costly kind of police work. A DWI arrest involves, among other things, patrolling to observe driving actions which indicate possible DWI, stopping a suspected driver, preliminary testing or observation to substantiate arrest, arrest, arranging for protection of the suspect's car through towing or other disposition, informing the suspect of the meaning of the implied consent law and of rights involving testing, making or arranging for tests, booking, detaining when appropriate, checking driving and criminal records for prior offenses and out-

standing warrants, and of course the preparation of all of the reports and verifications required of these steps in the DWI arrest process. A DWI arrest takes more time and vastly more paper than most felony arrests.

...TIME CONSUMING

The actual time consumed by the arrest process itself--not including the patrolling to detect drunken driving--will average about 1½ hours. Number of patrolling hours (night-time) per DWI arrest varies widely between departments with the most productive departments (or officers) making an arrest every six hours and the average department making a DWI arrest every 14 or 15 patrolling hours. In a metropolitan area in 1975 the number of squad car miles driven per DWI arrest was 204. The above figures are for the kind of special duty patrolling during prime DWI hours (night-time between 9 p.m. and 3 a.m.) in which the officers had as their principal assignment the patrolling for drunken drivers.

COST PER DWI ARREST

It can be argued, of course, that in a general duty patrolling situation the cost should be ascribed to other police actions and duties as well as to the DWI arrests which take place, and this is true. The cost items of officers time and squad car miles identified above are for the purpose of showing that $150 as the average cost of making a DWI arrest is not unreasonable. In 1974 the direct labor cost for arresting officers' time was $123 without including such items as squad car mileage or the overhead involved in booking, holding, testing, communications and supervision.

BOUNTIES?

If somebody wants to call this a "bounty system" it may very well be a good description. It's hard to think of a more deserving species to put a bounty on than drunken drivers, or a better source of funds to pay the bounty than a nickel-a-drink bar tax.

PROSECUTION COSTS

(2) $100 for providing prosecution services. The cost to the arresting community of providing prosecution of drunken driving cases may vary, depending on whether the community employs a full time prosecutor for all criminal and misdemeanant cases it

takes to court or whether it contracts for prosecution services. However, an assessment of prosecution time spent on all DWI cases in a sampling of jurisdictions provides a base for establishing an equitable across-the-board reimbursement per drunken driving case prosecution, with consideration for the proportion of cases quickly and easily tried as well as those requiring more time and work. A reimbursement of $100 per charge brought seems reasonable.

PUBLIC DEFENDER COSTS

(3) $100 per public defender case.
The proportion of public defender time spent on DWI cases has been determined from defenders' office logs. Setting a per-case-handled flat reimbursement fee, such as for prosecutions, is similarly done. Public defender costs, in those cases where counsel is provided to indigent defendants, is $100 per case.

PSI CUTS REPEATERS BY HALF!

(4) $35 per presentence investigation or assessment of problem drinking.
Minnesota law now requires, in virtually all cases, a presentence investigation to determine whether or not a person convicted of an alcohol related traffic offense has an alcohol problem and a recommendation to the court or the drivers license authority when rehabilitation or education is indicated. The cost of conducting such a presentence alcohol problems assessment is at present borne by the counties with the state reimbursing up to half of that cost. Thus the property tax payer and the income tax payer bear this cost, just as they do the cost of enforcement. It has been shown that presentence investigation and referral to treatment or alcohol education programs cuts repeat offenses in half compared with conventional penalties alone. Since about 80% of our drunken driving problem involves people with a distinct, identifiable, treatable drinking problem rather than ordinary social drinkers who made a one-time mistake and were unlucky enough to get caught at it, doing presentence alcohol problem assessments is very much worth doing. The total cost of carrying on this program should be shifted from the general taxpayer.

PSI
COSTS

Presentence investigations to provide an alcohol problems assessment are not full-blown psychiatric or medical work-ups, nor are they the kind of full presentence investigations that court personnel may be familiar with in felony cases. They can, and are being done in an average of about one hour and at a cost of about $30. Costs may be somewhat higher than this where a small case load makes it necessary to contract for outside services or where other factors may be involved. A flat payment of $35 per presentence investigation conducted would reimburse counties for direct costs and would absorb some of the administrative, clerical and overhead costs of this service.

(5) $25 per day of incarceration.

JAIL AS
DWI "CURE"

STATE PAY
JAIL COST

Another direct cost to the general taxpayer which arises out of a conviction for drunken driving is that of paying for the keep of a person sentenced to jail. Heavy jail sentences are no longer seen as cure-all for the drunken driving problem. Across the board mandatory jail for drunken driving has shown no effect wherever it has been tried and has most often resulted in fewer convictions with no decrease in the amount of drunken driving going on. Nevertheless, even those people most deeply committed to rehabilitation of problem drinkers readily acknowledge the role that a jail sentence can have, either as a sentencing alternative to coerce acceptance of treatment or as a means of "getting the attention" of the hard core offender. In those cases where the court feels it is necessary to impose a jail sentence, it seems appropriate to take the cost of incarceration from the local taxpayer. Therefore it is proposed that the state reimburse for the cost of jail sentences imposed on drunken drivers.

(6) $50 per person/day "detox".

ALCOHOL/PED-
ESTRIAN
PROBLEM

A somewhat neglected area of alcohol-related traffic accidents and fatalities is the drunken pedestrian. Half of adult pedestrians killed in traffic accidents have a blood alcohol concentration (BAC) of .10 percent or higher, the BAC at which it is illegal to drive. Minnesota's receiving

DETOX AS TRAFFIC SAFETY MEASURE

centers for intoxicated persons, (often called "detox centers") have, as part of their purpose, the protection of the intoxicated person against immediate harm. In addition, we should remember that a drunken pedestrian can and does quickly become a drunken driver if he can find his car and the keys. The "joke" about the person who "had to drive because he was too drunk to walk" is too frequently tragically true. All or a share of the cost of operating these detox centers should be shifted from the general taxpayer and provided for by state payment to each such a center of a fee per client received.

(7) $150,000 to the Attorney General to meet costs of representing the state in legal actions concerning alcohol and drug related traffic laws. These are for the most part actions in which there is an appeal from drivers license revocations, either under 169.123 ("Implied Consent") or 169.127 (Revocation upon report of blood alcohol test showing .10 percent of alcohol or higher).

STATE PAY FOR OVERTIME DWI ENFORCEMENT

INCREASE WEEKEND NIGHT DWI PATROL

(8) $15 per hour of police extra-duty time drunken driving patrolling.
Another specific way in which the state could assist local communities would be to provide on a flat per-hour basis, funds with which communities would pay for extra duty service by their own police officers, patrolling between 9 p.m. and 3 a.m. with the primary mission of preventing or arresting drunken drivers. Relatively small amounts of time in these peak drunken driving hours can be very productive. If forty-thousand patrol hours at $15 per hour state funding were available on a basis of population to local communities and counties conducting traffic law enforcement, it would enable, for example, a police department serving a population of 50,000 to put in an additional six officer-hours of patrolling each Friday and Saturday night. This might be a good time to note that there are between twenty and thirty thousand drunken drivers on Minnesota roads on either a Friday or Saturday night and an average of fewer than 150 are arrested on each of those nights.

(9) $800,000 to reimburse local, county or state departments, agencies, or facilities for education, treatment, care, and rehabilitation pursuant to Section 3. (Section 3 establishes a client fee of $100 per case for all but indigent clients, with this fund being drawn upon to pay that fee in the case of indigents and to pay up to $750 for longer term rehabilitation or care where there is no other non-public source of payment. This system will be described in more detail below, under "Section 3".)

Section 2 further provides that the Commissioner of Public Safety may use the proceeds of the tax for activities, programs and services of the Department of Public Safety which relate to prevention and control of drunken and drugged driving as follows:

(Paragraph letters follow paragraphing in the bill)

DRIVERS LICENSE WORK COSTS

(a) $2,250,000 for drivers or motor vehicle licensing activities and services directly relating to alcohol or drug related violations. The amount stated here is a considered estimate of the proportion of drivers license division activity relating to control of drunken driving. Although numerically drivers license actions requiring entry on the record involve more non-alcohol than alcohol-related entries, the non-alcohol related cases require a minimum of time and work. Alcohol cases are complicated, time-consuming, and take constant rechecking, monitoring, liaison with courts and court-directed education and rehabilitation programs. The Department is also charged with responsibilities under 169.127 which provides for administrative revocation of license when a test shows .10 percent or higher blood alcohol concentration, and establishes limited licenses based on need to attend rehabilitation programs or for other purposes.

BCA
INFO AND
EDUC

(b) $750,000 to finance alcohol and other drug related activities of the Bureau of Criminal Apprehension. The paragraph is self-explanatory.

(c) $100,000 for information and education programs dealing with drunken driving; materials and services.

(d) $60,000 to plan and conduct regional and statewide training and coordination seminars, courses and meetings for professional groups dealing with the problem. Self explanatory as to intent; argumentation favoring follows:

TRAINING

CROSS/JOB SEMINARS

The state would sponsor and pay for alcohol/traffic system regional training and coordination programs to provide both specialized training for particular professional groups, such as police, probation officers, chemical dependency specialists, judges, prosecutors, defense attorneys, driver education teachers, and others, as well as seminars and workshops which will bring representatives of some of these different specialties into communication with each other. The value of this kind of cross-pollination was brought out in a series of eight back-to-back two-day workshops held in Duluth, Bemidji, Mankato, Rochester, Alexandria, Marshall and two in the Twin Cities metropolitan area. These workshops were conducted on a crash basis to familiarize court personnel, including both probation officers and chemical dependency specialists, with new Minnesota laws effective July 1, 1976 providing for presentence investigations and license revocation upon report of a .10 percent BAC but with broader limited license possibilities. Driver license evaluators and examiners had the same needs for the same information and training, so these personnel were seeded into the same workshops. The fall-out effect was a surprisingly quick dissipation of misunderstandings about driver licenses and the roles of the court and the department of public safety, and the opening up of communication which has already resulted in improved handling of drunken driver cases by all concerned.

(e) $40,000 to meet costs of attendance at programs in (d) above by appropriate governmental agency employees.

LOCAL PROGRAM FUNDS

(f) $4 million ($2 million to counties; $2 million to municipal) local and county governments to carry on independent programs to aid prevention and control of alcohol and other drug related traffic problems. Provides for the Department of Public Safety to administer distribution of the grants,

AID TO LOCAL PROGRAMS

with amounts based on population of those applying, with cooperative county/municipal mixes of funds authorized.

Those legislators and others who have grappled with the problem of drunken driving have frequently heard expressed the need for "preventive" or "educational" programs rather than relying on waiting for people to violate the law and then trying to first catch them and later still, rehabilitate them. This may seem oversimplistic, relying on trying to dig out a deeply seated root cause of a social problem while allowing the problem itself to flourish while we seek the cause. Nevertheless, local communities need the resources to carry on their own prevention and control programs. Such programs need not be limited to educational or informational materials or programs. They could include such things as police training, training of chemical dependency specialists for the court services department, improved detox pick-up facilities, police or rehabilitation equipment needs when they are alcohol-related, such as portable breath testing equipment or vans where they are equipped and used for drunken driving enforcement.

The Bill provides that Department of Public Safety shall provide information about the availability of the grants and give assistance in planning for programs and applying for them.

ADMINISTRATION, DATA ANALYSIS, EVALUATION

(g) $800,000 to meet the cost of administering Sections 2 and 3 by the office of alcohol and drug related traffic control programs, including data collection and analysis, evaluation of program effectiveness and preparation of reports to the Commissioner of Public Safety and to the Legislature.

SECTION 3

CLIENT FEE

Section 3 establishes, by adding a section to Chapter 169 (169.128) a system of requiring violators, or those enrolling in rehabilitation or education programs in order to qualify for a limited license under 169.127, to pay a client fee of $100 to cover all or part of the cost of that education or rehabilitation as well as the necessary cost of monitoring their attendance and related probation services. Under Section 2 above there was authorized $800,000 from the proceeds of the tax to pay that fee in the case of indigents, and Subd 2 of Section 3 specified the conditions under which the $100 is not charged the offender but is paid to the governmental agency providing the education or rehabilitation and monitoring service.

Subd. 3 provides that where offenders are deemed to have a chemical dependency or alcoholism problem that should receive longer term or in-patient care and there is no other non-public source of payment that the Department of Public Safety shall re-imburse for the actual cost of such treatment up to a maximum of $750 for each case in which the service is provided.

In the preparation of various cost and revenue estimates for this bill the following bases have been used:

BASES OF ESTIMATES

1. Present case load (20,000 DWI arrests, 1976; projected 30,000 for 1977 if this Bill enacted).

2. Experience where actual experience data is available, best estimates from best sources where not.

3. Information from appropriate agencies with full understanding that providing the information on existing or projected costs did not imply endorsement of the proposal.

4. Calculations of proportion of offenders being directed to various treatment programs or incarceration.

5. Calculation of all indigency-based figures at 20% of the incoming caseload. This is turn, is based on public defender vs all defendants.

Revenue estimate, although it is not included in the Bill itself:

REVENUE

Annually, $23 million, based on authoritative estimate of a minimum of 25% of alcoholic beverages being sold on-sale.

COSTS

Total cost estimate, programs authorized by the Bill, based on 30,000 DWI arrests: $19 million

The formula for the tax thus allows continued expansion of the drunken driver control program until a more reasonable share of the drunken drivers who are out there on Minnesota roads are arrested. At present, half of one percent are arrested. Making it one percent, or 1½ percent, might bring us closer to bringing the problem under control.

This Bill provides a more appropriate source of funds to do it.

It's called "Taking the Drunken Driver Off the Property Tax Payer's Back."

To the extent that local and state government are relieved of that cost and pass on that relief to the taxpayer, it may be called a tax relief measure.

[From the Minneapolis Star, Feb. 22, 1978]

A Drink Tax To Fight Drink

We urge passage of the bill to shift the cost of controlling drunk drivers from general taxpayers in Minnesota to those who drink in bars and retaurants. The bill has cleared the Minnesota House Criminal Justice Committee and is now before the Tax Committee; its supporters are found among city officials, police, prosecutors and chemical dependency workers.

"Take the drunken driver off the property taxpayer's back." That's the catchy slogan. But it tells only part of the story. The $27-million yield expected from the nickel-a-drink tax would do more than beef up local law enforcement. I would also support prevention and rehabilitation efforts at both the local and state levels. So it could lift some of the social costs of alcohol from the state's general fund.

On any Friday or Saturday night there are up to 30,000 intoxicated drivers on Minnesota roads. Of the tiny minority who are now arrested, 80 percent usually had been drinking in a bar. Athough small, the sample is a good indication of the problem, experts say. So the focus of the bill is on the reimbursement of counties and municipalities for all costs of drunk driving control. The aim is to stimulate more and tougher local enforcement. The nickel-a-drink tax would finance a schedule of "bounty" payments for each criminal justice system step, starting with $150 for the arrest. It would pick up the operating costs of every detoxification center.

The bill would also establish an "offender-client rehabilitation fee." That is, if a judge sentenced a convicted drunken driver to a tax-supported rehabilitation program the driver would pay a fee to help cover the cost. As far as the defendant is concerned that's like a fine. To the community it is a fee for service. The nickel-a-drink tax would cover such fees for people to poor to pay them. I would also cover a number of alcohol-related traffic costs now caried by the state, which is to say the general taxpayers.

[From the Minneapolis Star, Dec. 13, 1977]

Drink Tax Would Finance Handling of Drunken Drivers

(By Stephen Alnes)

A proposal to make drinkers pay the costs of dealing with drunken drivers was introduced in the last session of the Minnesota Legislature and will be up for consideration in the next session.

What it would probably mean is that most drinks bought in a bar would cost about a nickel more. The proceeds would be used to reimburse government for the costs of arresting suspected drunk drivers, prosecuting them, paying public defenders, presentence assessments, jail terms and detoxification services.

The tax would not actually be imposed by the drink. Rather it would be imposed on the gross receipts of wholesalers from their sales to on-sale establishments. The tax would be imposed at the rate of 5 cents an ounce of distilled liquor, 5 cents per 12 ounces of beer and 5 cents per 4 ounces of wine.

The assumption, of course, is that the on-sale establishments would pass the additional cost through to the imbiber at the same rate. The proceeds would be about $23 million a year.

Sponsors of the legislation are Reps. John Arlandson, DFL-Golden Valley; Robert Ellingson, DFL-Brooklyn Center; Arnold Kempe, DFL-West St. Paul; Ken Nelson, DFL-Minneapolis, and Raymond Albrecht, IR-Brownton, and Sens. David Schaaf, DFL-Fridley, and Robert Benedict, DFL-Bloomington.

But much of the rationale for the bill was developed by Forst Lowery, who is director of the Hennepin County Alcohol Safety Action Project. He says it cost Minnesota taxpayers more than $11 million last year to try to control drunken drivers. "It was a modest effort, more effective than most other states' programs, but short of what's needed to approach control," he says. "We arrested fewer than one percent of the drunks on the road at any given time."

He says Minnesota has good laws dealing with drunk driving and the bill wouldn't change them. What it would do is "shift the existing costs of controlling the drunken driver from the general taxpayer who pays those costs now to consumers of on-sale alcoholic beverages." It would also increase the amount of enforcement which communities can afford.

The proceeds of the tax would be appropriated to the state commissioner of public safety, who would distribute it to state, county or municipal governments which provide various services in the enforcement of drunk driving laws.

For example, each governmental unit would receive $150 for each drunk driving arrest it makes. Lowery explains that arresting drunken drivers is a time-consuming, complicated and hence costly kind of police work. A DWI arrest involves, among other things, patrolling to observe driving actions which indicate possible DWI, stopping a suspected driver, preliminary testing or observation to substantiate arrest, arrest, arranging for protection of the suspect's car though towing or other disposition, informing the suspect of the meaning of the implied consent law and of rights involving testing, making or arranging for tests, booking, detaining when appropriate, checking driving and criminal records for prior offenses and outstanding warrants and of course the preparation of all of the reports and verifications required.

A DWI arrest takes more time and vastly more paper than most felony arrests, Lowery says. In 1974 the direct labor cost for the time of arresting officers was $123, he adds.

The bill also would provide $100 to the jurisdiction handling the prosecution, $100 for each case involving the public defender, $35 for each presentence investigation or assessment of problem drinking, $25 for each day of incarceration of the drunk driver, $50 per day for use of detoxification centers and $15 per hour for police extra-duty time spent on drunk driving patrolling.

Funds also would be provided to the attorney general to meet costs of representing the state in some cases, to reimburse departments, agencies or facilities for education, treatment and rehabilitation, to the driver license and motor vehicle license programs for services directly related to alcohol or drug related violations, to help finance some activities of the Bureau of Criminal Apprehension, for an information and education program dealing with drunk driving, to conduct regional and statewide training courses and seminars, and so on. The estimated cost the first year would be about $19 million.

"If somebody wants to call this a bounty system," says Lowery, "it may very well be a good description. It's hard to think of a more deserving species to put a bounty on than drunken drivers, or a better source of funds to pay the bounty than a nickel-a-drink bar tax."

South Carolina Commission on
Alcohol and Drug Abuse,
Columbia, S.C., August 18, 1980.

Hon. Wendell H. Ford,
Chairman, Consumer Subcommittee,
Dirksen Senate Office Building, Washington, D.C.

Dear Senator Ford: On behalf of the South Carolina Commission on Alcohol and Drug Abuse (SCCADA), I am pleased to take this opportunity to express our views on S. 2816, the Alcohol-Impaired Driver Act.

Based on its eight years of experience in conducting alcohol safety programming in the State of South Carolina, the SCCADA wishes to confirm the need for a comprehensive alcohol-traffic safety program in each state. As South Carolina's Single State Authority for providing alcohol programming, we also wish to offer our support and services in cooperation with the other Single State Alcohol Authorities in the design, implementation and administration of the alcohol-traffic safety programs. Clearly, each level of government (national, state, county, and city) has its legitimate role and responsibility in attacking the problem of the alcohol-impaired driver. The Single State Authorities for alcohol occupy a unique position for designing and administering comprehensive, feasible, and effective alcohol traffic safety programming such as is proposed in S. 2816. A comprehensively designed program will necessarily involve several components of the criminal-justice system and the health service field. Further, feasible system will have to be designed on the basis of a thorough working knowledge of the various parts of the system. It is important that this knowledge be available and be applied in the designing phase of the program so that good intentions and hopeful beginnings will not be frustrated later. Also, if the program is to be effective, the characteristics of the individuals who will be the clients of the program must be well known and taken into account in designing the program. The wealth of expertise in these critical background areas which is available within Single State Alcohol Authorities should therefore be utilized extensively from the beginning in designing and implementing alcohol-traffic safety programming of the scope proposed here.

Self-sufficiency must be the ultimate financial goal of the individual programs. Mechanisms for achieving this goal may include using DUI fine monies, collecting client fees for services, and collecting earmarked alcoholic beverage tax monies. Additional methods may exist or may be developed through thoughtful study of the problem. Adequate funding for all aspects of the program must be assured in the design of the program. Cost containment through cutting corners will only thwart the original purpose for having an alcohol-traffic safety program. The level of financial support arranged for the programs will probably be the most decisive factor in the ultimate success of failure of the programs. Financial support for a program not only enables it to obtain needed resources, but also contains a message as to the perceived value and potential efficacy of the program. The message must be clear that alcohol-traffic safety programs are highly valued and that we believe that they will be effective.

The determent of all instances of driving under the influence of alcohol would obviously be the most desirable outcome of the program, but realistically the near elimination of repeated offenses of driving under the influence should be an expected outcome of the program. In the long run, reduced recidivism is the only criterian of success that will be accepted and understood. A record system not only to identify repeat offenders, but also to give information as to why individuals repeat the offense is a requirement of a serious program.

An appropriate combination of legal sanctions and rehabilitative treatments is more effective in reducing repeated offenses of driving under the influence than either one is by itself. A strong program would provide for a jail sentence and/or community service and safety education and alcohol treatment and suspension of driving privileges and provision for a restricted license. The crucial aspect of a successful program will be that of providing the appropriate degree of sanction in combination with the appropriate level of treatment for an individual client. The process of making appropriate decisions concerning the degree of sanction and the level of treatment to be implemented for individual clients is greatly enhanced by (1) an investigation of the events leading up to the offense; and (2) an assessment of the individual's level of use or misuse of alcohol. A program that would automatically provide the same short-term treatment services for all DUI offenders would probably be no more effective than no program at all. It would contribute to the complacent idea that something is being done to help when indeed what is being done in many cases is not doing anything to help. Although the field of alcohol problems assessment is an established and extensive one, in too many instances, because of the lack of organized alcohol-traffic safety programs, alcohol problems assessments (formal and informal) are made by persons without the benefit of exposure to current, sound assessment methods. Also, the outlook for the development of additional beneficial technological items appears promising. Therefore, provisions should be made in the bill whereby education and treatment services will be provided to DUI offenders on the basis of the results of individual alcohol problem assessment; that high professional standards of knowledge and performance of alcohol problem assessment personnel will be assured; and that research and development efforts in alcohol problems assessment will be adequately supported fiscally and programmatically.

Many costly and unnecessary court proceedings can be avoided and a more appropriate conviction rate and arrest rate can be achieved by writing an illegal per se provision into this legislation. The .10 percent BAC criterion for driving while under the influence of alcohol is amply supported by scientific studies and by the practical experience of persons working in the field of alcohol and traffic safety. An effective illegal per se provision would set .10 percent BAC as conclusive evidence of legal intoxication. However, the most important factor in determining whether a person is driving while under the influence is his driving behavior. A low BAC can be misleading when alcohol has been consumed in combination with one or more psychoactive drugs which are not detected by the standard BAC test proceedings. The attached statement provides a more detailed account of the SCCADA experience in regards to alcohol-traffic safety programming.

Thank you for the opportunity to share with the Subcommittee our views on S. 2816. We will be happy to provide additional comments or services in this effort.

Sincerely,

WILLIAM J. MCCORD, *Director.*

Enclosure.

INTRODUCTION

Much progress has been made toward reducing the needless loss of life and property on our highways. This progress has come about because people have become concerned over these losses and have mounted efforts to attack the contributing problems. Encouragingly the highway death rate, to which the act of driving under the influence of alcohol and other drugs is a major contributing factor, has been greatly reduced over the past several years. However the actual number of highway deaths remains quite high and steadily increases each year. (47,038 deaths in 1976; 49,510 deaths in 1977; 50,767 deaths in 1978; and 51,510 deaths in 1979.) The deaths per 100 million vehicle miles of travel declined in South Carolina from 11.6 in 1950 to 3.7 in 1979. Also, while the mileage death rate in South Carolina declined 33.3 percent during the past decade from 6.2 in 1970 to 3.7 in 1979, during the same period of time accidents increased 43.5 percent (67,808 in 1970 to 97,394 in 1979) and injuries increased 19.6 percent (19,864 in 1970 to 23,815 in 1979).

Driving Under the Influence of intoxicants continues to be a major contributing factor in highway traffic losses. A study of South Carolina coroners' reports reveals that from 1975 to 1977, 69 percent of all driver deaths were alcohol-related, i.e. at least one driver or pedestrian in the fatal accident had been drinking.

Thus, three general points have emerged with striking clarity through the recent several years of work to control highway traffic losses: (1) remedial programs have been effective, (2) more remains to be done and (3) reducing the incidence of DUI is a promising and needed area of activity upon which to focus.

The establishment of an effective Alcohol-Drug Traffic Safety Program in each major political subdivision aimed at discouraging driving under the influence of alcohol or other substances which impare a driver's perception, judgement or skill can provide a strong and needed further step in the right direction. The efficacy of such programs will be enhanced by carefully designing and implementing them on the basis of the knowledge which has been gained through experience with existing Alcohol Safety Action Programs.

The South Carolina Commission on Alcohol and Drug Abuse (SCCADA) initiated the first Alcohol Safety Action Program in the nation in January 1972. The following statement is therefore offered from the perspective of eight years of successful experience and learning. The statement contains a brief overview of the philosophy, the implementation, the outcomes to date and the current directions of the South Carolina Alcohol Safety Action Program (SC ASAP).

PURPOSE

The South Carolina Alcohol Safety Action Program is designed firstly to reduce the personal and societal losses due to alcohol and/or drug-related traffic accidents, and secondly to reduce other personal and societal losses due to alcohol and/or drug abuse. The strategy for accomplishing these purposes is to intervene as early as possible into those processes which have a high probability of resulting in an alcohol or drug-related traffic accident or an alcohol or drug dependent lifestyle.

PHILOSOPHY

South Carolina ASAP is not conceptualized as an isolated entity entirely of its own. Rather, it is seen as a philosophy and a mechanism which brings together existing systems to deal with state and local needs in public safety and public health. South Carolina ASAP coordinates the activities of these systems and provides those services which are unavailable from any other source. The philosophy of South Carolina ASAP can best be conceptualized as a series of continuums. There are continuums of systems, of services, of client needs, of program change, of training, of control. This conceptualization recognizes that there are few dichotomous situations, that gray areas are the rule and not the exception.

Society, since its beginning has attempted to control and modify the behavior of individuals and groups who threaten societal norms. These attempts at control and modification are carried out in our society by the criminal justice system, societal agencies, employers and treatment and rehabilitation agencies. Generally, the first three of these identify people with problems, attempt to remove those who are dysfunctional and ignore those who are not dysfunctional. The treatment and rehabilitation agencies receive some of the dysfunctional persons and attempt to help them solve their problems and reintegrate them into society.

What has been missing, and what ASAP and other intervention programming provides, is a link between the identification systems and the treatment and rehabilitation agencies. This link provides a sure method for placing the dysfunctional person in appropriate services. Appropriate services may very well include removal from the society permanently. At the same time, this link allows for services for the person who is not yet dysfunctional, services which may save enormous personal and societal costs.

Clients entering intervention programs such as ASAP for alcohol and drug problems can be divided into three broad groups. At one end of the continuum are the soical and experimental/casual users. These clients need educational experiences which will reinforce the sanctions placed on them by the society for their actions. At the other end of the continuum are the dysfunctional abusers or problem drinkers who need traditional treatment and rehabilitation. This treatment and rehabilitation is generally available in the community already. Spread across the middle of the continuum are those people who are moving towards dysfunctionality or at least experiencing some degree of dissonance with their environment. There are usually no programs to fill the needs of these clients or get them to a program which will address their needs.

Intervention programs should use the existing systems to (1) identify clients, (2) provide a needs assessment for the client, and (3) provide necessary services for the client directly when they are not otherwise available, or act as an advocate for the client to see that existing services are made available. For the social/experimental/casual user these services are usually education/therapeutic experiences with the emphasis on the educational. For the dysfunctional abuser or problem drinker these services provide access to existing treatment and rehabilitation. For the client in the middle group, these services are educational/therapeutic experiences with the emphasis on the therapeutic. The services for this group also include access to community resources like TEC schools, remedial reading, vocational rehabilitation and so on. For all clients, a return to traditional sanctions is mandatory if warranted by the behavior of the client.

Intervention is a constantly changing field. Substances change, clients change, systems change, and methods change. Intervention programs must remain dynamic. To do so, decision makers must be kept informed of change. Continuous monitoring and evaluation is essential to keep decision makers informed. Such information lies on a continuum from daily reports of client and worker loads, through evaluation of the efficiency and effectiveness of programming to research on new and better methods.

THE INTERVENTION PROCESS

ASAP interventions activities are divided into five components: (1) identification, (2) assessment, (3) referral, (4) follow-up and, (5) community education/public information.

The identification mechanism is developed with the social system in contact with the client. The specific point within the system where identification takes place varies according to program need, client need, and system need. The program needs a clear-cut sanction to work with the client. The client needs a clear-cut advantage in availing himself of the program opportunity. The system needs a clear-cut advantage in allowing individuals to enter the programs. The balancing out of these varying needs is done at a local level with technical assistance from the state level.

Identification is a method by which the individual is recognized as a potential client for ASAP Intervention. Client recognition is accomplished through Driving Under the Influence (DUI) arrests, license suspensions, referrals and sentencing. There are three sub-populations of DUI offenders. They are:

(*a*) First offender of DUI—persons entering ASAP seeking provisional driving licenses;

(*b*) Multiple offender of DUI—persons entering as condition of probation or sentencing; and,

(*c*) Incarcerated multiple offender of DUI—persons referred into ASAP by the Department of Corrections.

The assessment process is a methodology for determining the existence, type and extent of life problems of the individual client and the devising for an appropriate response to these problems. A relatively standardized assessment process is used for evaluation across the state.

The process for assessment: (a) Utilization of the Assessment Interviewing for Treatment Planning (AITP) method including readiness for treatment, relationships, rationality and resources; (b) Mortimer-Filkins (court procedures for identifying problem drinkers)—A standardized tool for diagnosis; (c) client typology; and (d) other relevant data.

The referral process is a methodology for implementing the appropriate responses devised in the assessment process. Referrals are made in a systematic manner to any community or state resource which answers the needs of the client, including all social health, treatment, and legal resources.

The follow-up procedure is a methodology for supporting the client in carrying through a referral and for gathering data to report back to the identifying system. The procedure also includes provision to bring the client back for additional assessment and referral, if needed.

Community Education/Public Information is a process or method of transferring information concerning the hazards of driving under the influence of alcohol and other substances to the general population. Examples of activities under the particular component include: (a) Mass-media campaigns; (b) displays at community settings; (c) public speaking engagements; (d) seminars, workshops and other training events; and, distribution of ASAP materials.

Alcohol and drug abuse is a lifestyle problem which develops over several years with mounting personal and societal costs. The development of an alcohol or drug dependent lifestyle can be arrested and reversed at any point in its development. The earlier the intervention, the greater are the savings in personal, economic and social terms. ASAP provides for an intervention approximately 15 years earlier than is typically possible otherwise.

ASAP is one of the answers to substance abuse problems. It catches people at a crisis point in their lives when they are vulnerable to change. It combines all of the various systems and methods which have been developed to deal with substance abuse problems and acts as a coordinator of these systems and methods.

ADMINISTRATION

Responsibility for implementing the South Carolina ASAP is shared among appropriate state level and local level entities. The utlimate responsibility for administration of the program rests with the Board Members of The South Carolina Commission on Alcohol and Drug Abuse. The responsibility for enforcement lies with local and state law enforcement agencies. The administration of the provisional license law is the responsibility of the South Carolina Highway Department. Management responsibilities are delegated by the SCCADA Board of Commissioners to the State ASAP within the Prevention, Education and Intervention Division of SCCADA. Responsibility for loal ASAP programmatic activities is shared by state and local ASAP programs through performance contracting.

The responsibility for implementing the day-to-day activities of identifying, assessing, referring, educating, treating and following-up clients and providing public information and education of the hazards of DUI is placed with the local program. Support and direction for these activities and the maintenance of standards are state responsibilities. Public information and education for instance is a dual responsibility of state ASAP and local ASAPs. A minimum local PE&I program commitment is part of the contract between state ASAP and local ASAPs. State ASAP commits to a certain number (usually two) of statewide campaigns each year. Research and Evaluation is primarily the responsibility of th State ASAP office. The responsibility for conducting major research and evaluation activities is contracted to the Research and Evaluation Division of SCCADA. As part of their contract commitment local ASAPs supply anonymous client data and program operation data. Arrest data is supplied by the State Law Enforcement Division and accident data by teh Department of Highways and Public Transportation. All this data forms the basis for Management Information and program evaluation.

State ASAP acts as the coordinating agency between local ASAPs and the Highway Department. The major responsibility of ASAP in implementing the law is to provide the Highway Department with proof that persons applying for a license are enrolled in the Alcohol and Drug Traffic Safety School and to notify the Highway Department if a person applying for a license does not successfully complete the ADTSS school.

Quality programming is maintained through four joint state-local processes: (1) monitoring and consultation, (2) program certification, (3) personnel certification, and (4) training. Monitoring and consultation occurs in both directions. The State office monitors local programs for compliance with the contract and pertinent state and federal laws and regulations. The State office also provides consultation and technical assistance to local programs through its own personnel and appropriate personnel from other divisions and other agencies. The State office is monitored by local program directors for compliance with the contracts and receives consultation and technical assistance from the Advisory Committee. Program certification is obtained through compliance with the Rules and Regulations. These rules and regulations are the product of concensus of the State office, local program directors, and the Advisory Committee. Changes in the rules and regulations may be requested by any of these three groups or the Certifiers Committee described below. All parties are given the opportunity for input. The rules and regulations are issued by the authority of the Commissioners of the SCCADA. Certification is issued by the SCCADA for persons carrying out education or treatment under intervention auspices. A careful screening and training process is carried out with trainees. This function is performed by certifiers who are not employees of the SCCADA except when performing part-time certification work. The certifiers are chosen from the best available professionals in the field. A few certifiers are employees of the local contractors but are not permitted to do certification work with other employees of their own agencies. The certifiers as a group form the Certifiers Committee which advises the State office on certification, education and treatment matters. This group provides another balance to the system, since it is independent of the system. Training is carried out with local program workers on a large scale. All contracts require a minimum training per year plus special training events. The training is designed on a "building block" scheduled over a period of years, with one training event leading to the next.

IMPLEMENTATION

In the late 1960's the South Carolina Commission on Alcoholism conducted a study among institutionalized alcohol abusers. A striking finding of that study was that the majority of the studied population had had a DUI arrest fifteen to twenty years prior to their institutionalization. The conclusion drawn from this finding was that an intervention at the time of the arrest could have saved a great deal in personal and societal costs. Developing programming to establish intervention became a priority of the Commission and resulted in the Alcohol Safety Action Program (ASAP). Prior to the implementatioin of this program in South Carolina, the state experienced over the six year period between 1966 and 1971, an average traffic fatality rate of 954 deaths per year. In addition to these deaths, there was an annual average rate of 19,000 traffic injuries. During this six year period, the estimated loss from motor vehicle accidents was $525,000,000.

Prior to 1969, revenue generated by alcohol beverage taxes were available only for general education purposes. Drunk driving was unlawful, but no specific definition of this offense was contained in the statutes. Sentencing authority of the mayors' and magistrates' courts did not provide for any rehabilitative disposition of convicted first-offenders.

The State Law Enforcement Division (SLED) was empowered in 1969 to implement, supervise and regulate the breath testing necessary for the enforcement of the state's Implied Consent Law. The regulations that were established required the certification of all breath-test operators and recertification at two year intervals. Breath-testing devices are located throughout the state in accordance with geography, population distribution and local capabilities. This coverage entails over 200 devices with at least one located in each law enforcement organization with trained operators. Since the beginning of the program about 1,500 officers have been trained and certified.

The 1969 General Assembly enacted a special tax on alcoholic beverages for the express purpose of establishing State and local programs for the prevention and treatment of alcohol or drug addiction.

In 1971, SCCADA was awarded a contract by the United States Department of Transportation, National Highway Traffic Safety Administration, to implement in cooperation with other State and local agencies and organizations a demonstration project designed to reduce the incidence of alcohol related fatalities, accidents and property damage in Richland County, South Carolina. The purpose of this project, named the Richland County Alcohol Safety Action Program (RCASAP), was to identify, apprehend and treat the problem drinker-driver in order to reduce the frequency of highway deaths, injuries and property losses in which alcohol was a contributing factor. The contract ran from January, 1972, through December, 1974, and was comprehensive in nature, encompassing all agencies dealing with drinking drivers. RCASAP and thirty-four of its sister projects in the county were the first attempt by the Federal Department of Transportation to take a total systems approach to a societal problem.

Deliberately established as a contractual project so that a strict research design could be followed, the program was strongly evaluated as a part of the contract with about 20 percent of the $2.5 million budget going to the University of South Carolina for this purpose. By late 1973, the results of this evaluation had convinced Governor John West and the South Carolina General Assembly that the project waranted statewide application. Funds were provided for this purpose and a special project was established in the South Carolina Commission on Alcohol and Drug Abuse. This expansion to a statewide ASAP was coordinated through the assistance of key staff members from the Governor's Highway Safety Program and the South Carolina Department of Highway and Public Transportation. By May, 1975, following passage of the Provisional Driver's License Act (see attached), complete State coverage was achieved.

The State alcohol safety program now operates through thirty-one local alcohol and drug abuse agencies under contract with SCCADA. Twenty-one of these programs cover a single county each, with the other ten located in multi-county areas. Program funding is derived from State and local sources, client fees and Highway Safety funds.

The program derives a substantial portion of its financial support from client fees. First offense ASAP clients pay a $50 fee, while second or multiple offense DUI clients pay a $100 fee. South Carolina ASAP legislation provides for the annual adjustment of client fees to defray the cost of operating the program.

The South Carolina Governor's Office on Highway Safety provides funds and programming support for alcohol and drug related highway safety public information and education efforts. A significant contribution of the Governors Highway Safety Program was the project that provided funding for Prosecutional Aides. These aides, under the sponsorship and training of the South Carolina Attorney General, provided trained legal prosecution of DUI cases upon request of the arresting law enforcement agency. During 1974–76, two hundred attorneys were trained as a reservoir available for case assignment by the Attorney General. SCCADA has also employed the Highway Safety funds in a statewide alcohol information program. A major example of the information and education program during 1975 was the use of a mobile van equipped with breath testing equipment to give demonstrations at public affairs throughout the state. These demonstrations and data from related drinking driver surveys were used extensively during 1975 to inform the public about the Provisional Driver's License Law.

The 1977 South Carolina Driver's Handbook was expanded to include a discussion of the Provisional Driver's License Law and the effects of alcohol on driving. The format was changed as the coverage of alcohol and drugs was modified to supply explanatory as well as regulatory material. Three commonly stated myths about alcohol are refuted in the new handbook and alternatives to driving after drinking are offered.

A working committee from the State Department of Education, SCCADA, and representatives of local school districts and county alcohol and drug abuse commissions provide assistance to schools which desire to increase alcohol education competency.

DUI offenders are generally identified and referred by the criminal justice system. First-time offenders have the option of entering the program and attending Alcohol and Drug Traffic Safety School (ADTSS). If they complete this four-week educational course, they may maintain their driver's license. Multiple offenders typically enter the ASAP program as a condition of probation. Their driving privilege is not reinstated by participation in ASAP. For this group the emphasis changes from education to counseling and treatment. These clients go through an intensive eight-week program. Multiple offenders are often referred to other treatment programs during or after ASAP.

OUTCOMES

ASAP is offered to clients in every county in the State. During fiscal year 1978–79 there were 8,193 clients. Of these 6,048 or 73 percent were first-time offenders and the reentry rate for this period was 7.43 percent.

Although South Carolina ASAP provides intervention services statewide, approximately 6,000 convicted drunk drivers per year fail to participate in the program. The continuing risk this poses to countless South Carolina citizens is a major highway safety problem which must and can be solved. About 19,000 South Carolina drivers are arrested per year for DUI. Of these, about 14,000 are convicted and have their driver's license suspended. Only approximately 8,000 of these drivers finally receive ASAP services. The South Carolina Commission on Alcohol and Drug Abuse has drafted legislation mandating particpation in the ASAP program for all persons convicted of driving under the influence prior to having their driving privileges reinstated. (See attached.) Since the inception of state-wide ASAP, the South Carolina mileage death rate has dropped more rapidly than the national highway death rate has.

A studies group of ASAP participants had signficiantly fewer traffic accidents and moving violations in the two years after ASAP than in the two years prior to entering ASAP.

ASAP clients who are assessed as social drinkers show signifcantly greater improvement in their driving records after participation in ASAP than do those who are assessed as problem drinkers.

Approximately 40 percent of the persons entering ASAP are assessed as problem drinkers.

Improved driving records are more likely to result when ASAP clients are provided services based on the results of an assessment than when services are provided on the basis of whether or not the client was arrested for DUI only once. The first arrest does not necessarily mean the first offense.

CONCLUSION

The South Carolina experience with ASAP has been effective in achieving progress toward its stated goals. This experience has also provided an opportunity to discover what needs to be done additionally to achieve greater success. The enactment and enforcement of legislation requiring all persons convicted of driving under the influence to participate in an Alcohol Safety Action Program for the purposes of assessment, education, and when necessary rehabilitation in order to have their driving privileges reinstated is seen by SCCADA as the most needed developed in the field of alcohol and highway safety. The SCCADA therefore heartily endorses the Alcohol-Impaired Driver Act of 1979 and offers whatever further assistance may be desirable in its behalf.

ATTACHMENT 1

SENATE AMENDMENTS—CALENDAR NO. H. 2387

INTRODUCED BY EDUCATION AND PUBLIC WORKS COMMITTEE

A BILL To Provide for Provisional Drivers' Licenses for Persons Whose Licenses Have Been Suspended for Driving Under the Influence of Alcohol or Drugs; To Provide Penalties for Violations; and To Create a Study Committee Concerning Provisional Drivers' Licenses.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. As used in this act "convicted" shall include convictions, forfeiture of bail or bond, entry of plea of nolo contendere and sentence thereon and entry of plea of guilty and sentence thereon.

SECTION 2. Notwithstanding the provisions of Section 46-348, Code of Laws of South Carolina, 1962, any person with a South Carolina driver's license who is or has been convicted of a first offense violation of Section 46-343 of the 1962 Code or for the violation of any ordinance of any municipality of this State that prohibits any person from operating a motor vehicle while under the influence of intoxicating liquor, drugs or narcotics, and whose license is not presently suspended for any other reason, may apply to the Motor Vehicle Division of the State Highway Department to obtain a provisional driver's license of a design to be determined by the department, to operate a motor vehicle during the specified suspension period. *Provided,* however, that such person shall enroll in an alcohol traffic safety school as provided for in Section 3; and furnish proof of responsibility as provided for in

Section 5; and pay to the department a fee of five dollars for the provisional driver's license.

The provisional driver's license shall not be valid for more than six months from the date of issue shown on the license.

The determination of whether or not a provisional driver's license shall be issued pursuant to the provisions of this act as well as reviews of cancellations or suspensions under Sections 46–184 and 46–196.9 of the 1962 Code shall be made by the Director of the Motor Vehicle Division of the Department or his designee.

SECTION 3. The provisional driver's license provision shall include a mandatory requirement that the applicant successfully complete, within seventy-five days from date of application for the provisional license, an alcohol traffic safety school certified by the South Carolina Commission on Alcohol and Drug Abuse. The applicant shall bear the cost of such school which cost shall be determined by the administering agency and approved by the South Carolina Commission on Alcohol and Drug Abuse; *provided*, such cost shall not exceed twenty-five dollars. If the applicant fails to successfully complete the school as directed by the Highway Department, the administering agency shall notify the department and the provisional driver's license shall be revoked and the suspension imposed for the full period specified in Section 46–348 and shall begin on date of notification to the individual.

SECTION 4. The applicant shall have a provisional driver's license in his possession at all times while driving a motor vehicle, and the issuance of such license and the violation conditions shall be entered in the records of the department for a period of ten years as required by Sections 46–345 and 46–348 of the 1962 Code.

SECTION 5. The department shall require proof of financial responsibility and assurance of acceptance in the alcohol traffic safety school prior to the issuance of the provisional driver's license.

SECTION 6. In the event the holder of a provisional driver's license issued pursuant to this act is convicted of violations under Section 46–196 of the 1962 Code totaling four or more points or any other law relative to the operation of a motor vehicle for which suspension of a driver's license is made mandatory by law during specified suspension period, the provisional driver's license shall be revoked and the full suspension imposed.

SECTION 7. In the event the holder of a provisional drivers' license issued pursuant to this act is convicted of a second violation under Section 46–343, during the specified suspended period, the provisional drivers' license shall be revoked and the full suspension imposed.

SECTION 8. Upon conviction of the offense stated in Section 2, outside the jurisdiction of the State, the person convicted may apply for the provisional driver's license in the event his South Carolina driver's license is revoked as a result of such conviction.

SECTION 9. Any person applying for the provisional driver's license provided for in this act whose application is denied by the department may appeal to the circuit court or county court of the county in which he resides. The department shall be given at least ten days' notice of the hearing of the appeal.

SECTION 10. There is hereby created a committee of six members, three of whom shall be members of the Education and Public Works Committee of the House of Representatives to be appointed by the Chairman of the committee, and three of whom shall be members of the Senate Highways Committee to be appointed by the Chairman of that committee. The committee shall work with the accountability study of the South Carolina Commission on Alcohol and Drug Abuse and the Highway Safety Committee of the State Highway Department to evaluate the impact of this act, relating to provisional drivers' licenses for persons whose licenses have been suspended. The committee shall make a report of its findings and recommendations to the General Assembly each year; *provided*, that in 1978 a final report shall be made concerning the feasibility of continuing or discontinuing the provisional licensing system provided for in this act.

SECTION 11. This act shall take effect April 15, 1975.

ATTACHMENT 2

A BILL To Amend Title 56, Chapter 5, Article 23 and Title 56, Chapter 1, Article 7 Code of Laws of South Carolina, 1976, To Provide for the Mandatory Assessment of Persons Whose Driving Privileges Are Suspended Under Section 56–5–2990 Prior to the Restoration of Driving Privileges of Such Persons.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 56–5–2990 of the Code of Laws of South Carolina is amended by adding at the end:

"Any person whose driving privilege is suspended under the provisions of this section shall be examined upon application for a restoration of their privilege. The examination shall be conducted by an Alcohol and Drug Safety Action Program certified by the South Carolina Commission on Alcohol and Drug Abuse. An assessment of the degree and kind of alcohol and drug abuse problem of the applicant, if any, shall be prepared based upon the examination and a plan of treatment and education developed based on the assessment. Entry into the services recommended in the treatment and education plan developed for the applicant shall be a mandatory requirement of the restoration of driving privileges to the applicant. The applicant shall bear the cost of such services which cost shall be determined by the administering agency and approved by the Commission on Alcohol and Drug Abuse; provided, administrative costs shall not exceed one hundred dollars. Services shall not be denied to any applicant due to a bona fide inability to pay. If the applicant fails to successfully complete the services as directed by the Department of Highways and Public Transportation, the South Carolina Commission on Alcohol and Drug Abuse shall notify the department and the applicant's driving privileges shall be suspended until the plan of treatment and education is completed, such suspension to begin on date of notification to the applicant. The Department of Highways and Public Transportation and South Carolina Commission on Alcohol and Drug Abuse shall develop such procedures as are necessary for the communication of information, provided that, such procedures are consistent with the confidentiality laws of the State of South Carolina and the United States of America."

Section 2. Section 56-1-1320 of the 1976 Code is amended by striking the first paragraph and substituting therefore the following paragraph:

"Section 56-1-1320. Notwithstanding the provisions of 56-5-2990, Code of Laws of South Carolina, 1976, any person with a South Carolina driver's license or any person exempted from the licensing requirements by Section 56-1-1320, Code of Laws of South Carolina, 1976, who is or has been convicted of a first offense violation or any ordinance of any municipality of this State that prohibits any person from operating a vehicle while under the influence of intoxicating liquor, drugs or narcotics, and whose license is not presently suspended for any other reason, may apply to the Department of Highways and Public Transportation to obtain a provisional driver's license of a design to be determined by the department, to operate a motor vehicle during the specified suspension period. Provided however, that such person shall enter an Alcohol and Drug Safety Action Program as provided for in 56-1-1330; and furnish proof of responsibility as provided for in 56-1-1350; and pay to the department a fee of five dollars for the provisional driver's license."

Section 3. Section 56-1-1330 of the 1976 Code is amended by striking the section in its entirely and substituting therefore the following section:

"Section 56-1-1330. The provisional driver's license provision shall include a mandatory requirement that the applicant enter an Alcohol and Drug Safety Action Program certified by the South Carolina Commission on Alcohol and Drug Abuse; and be examined to determine the extent and nature of an alcohol and drug abuse problem, if any; and successfully complete treatment or education services recommended by the program; provided, such services can be completed within 150 days from the date of application. The applicant shall bear the cost of such services which cost shall be determined by the administering agency and approved by the South Carolina Commission on Alcohol and Drug Abuse; provided administrative costs shall not exceed one hundred dollars. Services shall not be denied to any applicant due to a bona fide inability to pay. If the applicant fails to successfully complete the services as directed by the Department of Highways and Public Transportation, the South Carolina Commission on Alcohol and Drug Abuse shall notify the department and the provisional driver's license shall be revoked and the suspension imposed for the full period specified in 56-2-2990, such suspension to begin on date of notification to the individual.

Section 4. This act shall take effect upon approval of the Governor.

Statement of Dean Harper, Chairman, Committee on Legislation, RAID

RAID, which stands for Rochester Against Intoxicated Driving, is a group of citizens of Monroe County, New York, who are concerned solely with the problem of drunk driving. It has the support of many people in upstate New York—both the professionals whose work involves dealing with alcoholism and its consequences, and citizens in other walks of life.

Concerning alcoholism, it is a rare individual who is not affected either personally—by virtue of having a drinking problem or living with someone who does—or occupationally—by virtue of contact with it in the work place. Because of this, few members of our community would deny that alcholism is a serious problem.

Equally evident is the feeling that the drinking driver, whether alcoholic or not, presents a serious community problem. There is a ground swell of outrage about the drinking driver. Many in our community quietly implore: "Get the drunk driver off the road. We don't care what you do or how you do it, but do it." Since we are one nation, we ask this of those in distant communities and states, to which we might travel, just as we demand it of our own state and local government.

Because of this feeling, we strongly support S. 2816, a bill that mandates state programs to combat drunk driving. However, we believe that such programs would be even more effective if they required that (1) alcohol-level measurements be taken in all individuals who are involved in automobile accidents (the cost of this could be paid by administrative fees assessed to those who exhibit any detectable level of alcohol) and (2) a driver's license be revoked for refusal to take any tests measuring level of alcohol.

Looking beyond existing and proposed legislation, many people in Monroe County ask for even stronger laws. Their ideas can be stated in two propositions, which they believe should be the basis for any future laws: (1) Anyone guilty of driving while intoxicated should have his or her driver's license permanently revoked. (2) Anyone guilty of driving without a license because it has been revoked for a DWI offense should be incarcerated for a one to two year period in a minimum security prison, or a special facility for such offenders.

And in one fashion or another, many people assert the following: Driving an automobile is not a constitutionally given right, but rather is a privilege that citizens grant to each other, and they grant it with the expectation that anyone receiving that privilege will fulfill certain obligations; and in being granted that privilege, each driver will agree to give up certain civil rights. That is, many people believe that once we get into and drive an automobile we give up civil rights that we otherwise have. Just as we have to be prepared to demonstrate, at any time and without cause, to our fellow citizens (and we give our police the responsibility for observing such demonstration) that we are driving automobiles that are certified safe, so also we have to be prepared to demonstrate, at any time and without cause, that we as drivers are sober and thereby safe drivers. That people are saying this reflects, I think, two things: (1) Basically, they have confidence in their police to fairly apply the laws; and (2) they are outraged by the problem of drunk driving.

We recognize that the above idea, which may mean random "police checks", can be challenged as a violation of civil rights. However, no right that we may have in general, and in the abstract, thereby can and should obtain in all circumstances. If we have the right to be free of random "police checks", we have a greater right to life and to feel free of threats to life. To again gain the latter, we may have to forego the former whenever we drive, because the drinking driver threatens the most basic of civil rights—life itself.

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